

Capital Reporting Company  
Workshop on Further Reform of Inmate Calling Services 07-09-2014

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FEDERAL COMMUNICATIONS COMMISSION (FCC)

WORKSHOP ON FURTHER REFORM  
OF INMATE CALLING SERVICES

July 9, 2014

9:30 AM - 4:12 PM

445 12th Street, S.W.  
Washington, DC 20554

Reported by: Chaz Bennett  
Capital Reporting Company

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1 A P P E A R A N C E S

2 FCC REPRESENTATIVES:

3 TOM WHEELER, Chairman

4 MIGNON CLYBURN, Commissioner

5 JESSICA ROSEWORCEL, Commissioner

6 FCC MODERATORS:

7 KALPAK GUDE, Chief, Pricing Policy Division,  
Wireline Competition Bureau

8

9 RHONDA LIEN, Attorney, Pricing Policy  
Division, Wireline Competition Bureau

10 DAVID ZESIGER, Senior Counsel, Pricing Policy  
Division, Wireline Competition Bureau

11

12 LYNN ENGLEDDOW, Assistant Chief, Pricing  
Policy Division, Wireline Competition Bureau

13 CO-MODERATOR:

14 DARRELL A. BAKER, Director, Utility Services,  
Alabama Public Service Commission

15

16 PANELISTS:

17

18 DARRELL A. BAKER, Director, Utility Services,  
Alabama Public Service Commission

19 CHERYL A. LEANZA, Policy Advisor, United  
Church of Christ, OC Inc.

20

21 TALILA A. LEWIS, Founder, Helping Education  
to Advance the Rights of the Deaf (HEARD)

22 JESSE WIESE, Policy Analyst, Justice  
Fellowship

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1 A P P E A R A N C E S (Cont'd)

2 PANELISTS (Cont'd):

3 KARINA WILKINSON, Steering Committee Member,  
4 New Jersey Advocates For Immigrant Detainees

5 PAUL WRIGHT, Executive Director, Human Rights  
6 Defense Center

7 ALEKS KAJSTURA, Legal Director, Prison Policy  
8 Initiative

9 LEE G. PETRO, Of Counsel, Drinker Biddle &  
10 Reath LLP

11 WILLIAM L. POPE, President, NCIC

12 VINCENT TOWNSEND, President, Pay-Tel  
13 Communications, Inc.

14 ELIAS A. DIGGINS, Division Chief, Denver  
15 Sheriff's Department on behalf of the  
16 American Jail Association

17 ALEX FRIEDMANN, Managing Editor, Prison Legal  
18 News

19 KEVIN LANDRY, Assistant Director, Office of  
20 Detention Policy and Planning, U.S.  
21 Immigration and Customs Enforcement,  
22 Department of Homeland Security

RICHARD "RICK" A. SMITH, CEO, Securus  
Technologies, Inc.

THOMAS SWEENEY, Senior Vice President-Sales,  
Global Tel\*Link

BRYAN F. BYRNE, Founder and Managing Partner,  
meshIP, LLC

JAY L. GAINSBORO, Founder, JLG Technologies,  
LLC

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1 A P P E A R A N C E S (Cont'd)

2 PANELISTS (Cont'd):

3 GRANT GONGAWARE, Chief Architect, Telmate,  
4 LLC

5 CHRIS MOORE, Vice President-Product  
6 Management, Global Tel\*Link

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A G E N D A

Welcome & Remarks

Remarks by Chairman Tom Wheeler,  
Commissioner Mignon Clyburn, and  
Commissioner Jessica Rosenworcel

Panel 1: Impact of Reform and Potential  
Need for Additional Reform

Co-Moderators:

Mr. Kalpak Gude, Chief, Pricing  
Policy Division, Wireline  
Competition Bureau

Ms. Rhonda Lien, Attorney, Pricing  
Policy Division, Wireline  
Competition Bureau

Panelists:

Mr. Darrell A. Baker, Director,  
Utility Services Division, Alabama  
Public Service Commission

Ms. Cheryl A. Leanza, Policy  
Advisor, United Church of Christ,  
OC Inc.

Ms. Talila A. Lewis, Founder,  
Helping Educate to Advance the  
Rights of the Deaf (HEARD)

Mr. Jesse Wiese, Policy Analyst,  
Justice Fellowship

Ms. Karina Wilkinson, Steering  
Committee Member, New Jersey  
Advocates for Immigrant Detainees

Mr. Paul Wright, Executive  
Director, Human Rights Defense  
Center

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1                                   A G E N D A (Cont'd)

2   Congressional Remarks

3           Remarks by Congresswoman Eleanor  
4           Holmes Norton (D-DC)

5   Panel 2: Ancillary Charges

6           Co-Moderators:

7                           Ms. Rhonda Lien, Attorney, Pricing  
8                           Policy Division, Wireline  
9                           Competition Bureau

10                          Mr. David Zesiger, Senior Counsel,  
11                          Pricing Policy Division, Wireline  
12                          Competition Bureau

13           Panelists:

14                          Mr. Darrell A. Baker, Director,  
15                          Utility Services Division, Alabama  
16                          Public Service Commission

17                          Ms. Aleks Kajstura, Legal  
18                          Director, Prison Policy  
19                          Initiative

20                          Mr. Lee G. Petro, Of Counsel,  
21                          Drinker Biddle & Reath LLP

22                          Mr. William L. Pope, President,  
23                          NCIC

24                          Mr. Vincent Townsend, President,  
25                          Pay Tel Communications, Inc.

26   Q/A Session

27   Lunch Break

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1 A G E N D A (Cont'd)

2 Panel 3: Understanding the Provision  
of ICS in Different Facilities

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Co-Moderators:

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Ms. Lynne Engledow, Assistant  
Chief, Pricing Policy Division,  
Wireline Competition Bureau

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6

Mr. Kalpak Gude, Chief, Pricing  
Policy Division, Wireline  
Competition Bureau

7

8

Mr. Darrell A. Baker, Director,  
Utility Services Division, Alabama  
Public Service Commission

9

10

Panelists:

11

Mr. Elias A. Diggins, Division  
Chief, Denver Sheriff Department  
on behalf of the American Jail  
Association

12

13

Mr. Alex Friedmann, Managing  
Editor, Prison Legal News

14

15

Ms. Aleks Kajstura, Legal  
Director, Prison Policy  
Initiative

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Mr. Kevin Landy, Assistant  
Director, Office of Detention  
Policy and Planning, U.S.  
Immigration and Customs  
Enforcement, Department of  
Homeland Security

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Mr. Richard "Rick" A. Smith, CEO,  
Securus Technologies, Inc.

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1 A G E N D A (Cont'd)

2 Panelists (Cont'd):

3 Mr. Thomas Sweeney, Senior Vice  
4 President - Sales, Global  
Tel\*Link

5 Q/A Sesseion

6  
7 Panel 4: New Technologies

8 Co-Moderators:

9 Ms. Lynne Engledow, Assistant  
10 Chief, Pricing Policy Division,  
Wireline Competition Bureau

11 Mr. David Zesiger, Senior Counsel,  
12 Pricing Policy Division, Wireline  
Competition Bureau

13 Panelists:

14 Mr. Brian F. Byrne, Founder and  
Managing Partner, meshIP, LLC

15 Mr. Jay L. Gainsboro, Founder, JLG  
Technologies, LLC

16 Mr. Grant Gongaware, Chief  
17 Architect, Telmate, LLC

18 Mr. Chris Moore, Vice President -  
19 Product Management, Global  
Tel\*Link

20 Q/A session

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1                                   A G E N D A (Cont'd)

2   Closing Remarks

3           Mr. Kalpak Gude, Chief, Pricing  
4           Policy Division, Wireline  
5           Competition Bureau

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1 P R O C E E D I N G S

2 CHAIRMAN WHEELER: Thank you for coming.

3 Roger, have I preempted you? Did you want to  
4 start this show off?

5 MEMBER GOLDBLATT: You can.

6 CHAIRMAN WHEELER: No, you come on. You  
7 got to -- I suddenly realize my role here is  
8 behind you, sir.

9 MEMBER GOLDBLATT: I just want to go  
10 over anyone who had questions, people watching  
11 live on the Internet, send questions to  
12 LiveQuestions@FCC.gov. We have people with index  
13 cards for questions in the audience. Just raise  
14 your hand and some of our staff will come around  
15 and get it.

16 We have cards with new wireless code.  
17 We have information on lunch; lunch will be 1:00  
18 o'clock to 2:00 o'clock. We're tight schedule.

19 The only thing is just the -- this is  
20 the one year, almost, anniversary of the first  
21 workshop that we had on this subject, so it's kind  
22 of exciting.

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1           So now -- oh, the entire workshop will  
2 be video recorded, will be showing up -- we're --  
3 we're waiting for a transcriber, so we'll have a  
4 transcription soon, and with great pleasure, I now  
5 introduce Tom Wheeler, our Chairman. You might  
6 have met him before.

7           CHAIRMAN WHEELER: Thank you. So, thank  
8 you, Roger. I didn't know anything about lunch,  
9 so I couldn't have been at all helpful about  
10 lunch. But thank you, Roger.

11           We're here for one really simple reason  
12 today, and that's because of Commissioner Clyburn  
13 and her leadership on this important issue.  
14 Although, I guess I should say it is because of  
15 Chairwoman Clyburn and her leadership on this  
16 issue.

17           While she was Chairman of this Agency  
18 she pulled this issue out of purgatory, kind of  
19 the bowels of the Agency, and gave it the priority  
20 that it deserves. We should all thank her for her  
21 leadership in this. We should thank Commissioner  
22 Rosenworcel for her role in bringing this along.

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1 But let's make sure that we fully recognize that  
2 we are where we are today because of one person's  
3 leadership.

4           Insofar as the Commission's current  
5 plans, I have only three things to day. One, the  
6 reform of Inmate Calling Services is a priority,  
7 is a top priority for this Agency, and will remain  
8 so.

9           Secondly, that we recognize that more  
10 needs to be done. The interim interstate rate cap  
11 needs to be made permanent, and intrastate  
12 calling, which as you know is the majority of  
13 calls, remains unreasonably high, and along with  
14 the burgeoning ancillary fees that get put on, has  
15 to be addressed if not attacked.

16           Thirdly, that Commissioner Clyburn  
17 continues to be the person on point, and all of us  
18 look to her for her leadership, and I can assure  
19 you that I intend to follow her lead as she is our  
20 north star on this issue.

21           So today it's my privilege to welcome  
22 you to this workshop, and to introduce the person

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1 who is the reason why we are all here,  
2 Commissioner Clyburn.

3 (Applause.)

4 COMMISSIONER CLYBURN: Thank you so  
5 much, Mr. Chairman. I truly am continually  
6 grateful for your leadership and for the support  
7 that you have shown to me, and for this effort.

8 Once again, good morning, everyone.  
9 Good morning, everyone.

10 AUDIENCE: Good morning.

11 COMMISSIONER CLYBURN: It's a good  
12 morning. Remember that.

13 It is truly my pleasure to welcome you  
14 here today, as we analyze the impact of the FCC's  
15 2013 Inmate Calling Decision, and discuss the  
16 potential of additional reforms for Inmate Calling  
17 Services. We thank you all for coming, and wish  
18 to specially extend our appreciation to the  
19 outstanding participants in today's workshop.

20 There are too many to mention, but allow  
21 me to recognize Darrell Baker from the Alabama  
22 Public Service Commission, and Kevin Landy (ph)

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1 from the U.S. Immigration and Customs Enforcement,  
2 Department of Homeland Security.

3           Reforming the Interstate Inmate Calling  
4 regime last year was an extremely proud moment for  
5 me and this Agency. The preceding language for  
6 almost a decade denying friends, family, and  
7 children of inmates relief from an egregious rate  
8 structure, upwards of \$17 for a fifteen minute  
9 call, and a \$4 connection for each call.

10           With the support of my colleague,  
11 Commissioner Rosenworcel, we took action and found  
12 that the existing rates were not in line with the  
13 Communication's Act's requirement for just,  
14 reasonable, and fair rates, and I just a few short  
15 months what we are finding is that doing the right  
16 things has reverberating benefits. Studies have  
17 consistently shown that having meaningful contact  
18 beyond prison walls can make a real difference in  
19 maintaining community ties, promoting  
20 rehabilitation, and reducing recidivism.

21           Making calls more affordable can  
22 facilitate all of these objectives and more.

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1 Recent data also show that reform is and was  
2 critically needed. In April of 2014 the  
3 Department of Justice's Bureau of Justice  
4 Statistics released a report analyzing the five-  
5 year recidivism rate in 30 states in 2005; over  
6 400,000 prisoners were a result of this survey.

7           The report found that two-thirds, or  
8 67.8 percent of prisoners were rearrested within  
9 three years, and that three-quarters, or  
10 approximately 76.6 percent we rearrested within  
11 five years.

12           This comes at a cost, and these costs  
13 are enormous to us all. For in addition to the  
14 impact of increased crime, crowded correctional  
15 facilities, and the need to build expensive new  
16 facilities, and not to mention the judicial time  
17 to prosecute these offenses, studies estimate that  
18 it costs an average of \$31,000 per year to house  
19 each inmate.

20           Not highlighted in this report, however  
21 is the personal impact on families and  
22 communities. There are 2.7 million children with

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1 at least one parent in prison, and they often want  
2 and need to maintain a connection.

3 In addition to coping with the anxiety  
4 associated with a parent who is not there on a  
5 regular basis, these young children are often  
6 suffering severe economic and personal hardships,  
7 and are often doing poorly in school, all of which  
8 are exacerbated by unaffordable inmate calling  
9 rates.

10 So as a society we have an obligation to  
11 do everything in our power to counter this. I  
12 take this obligation seriously and remain  
13 committed to making sure that the FCC does its  
14 part to make basic phone calls for all affordable,  
15 a requirement and a statute that for too long had  
16 been ignored.

17 Last years order adopted rate caps for  
18 interstate calls of \$.21 per minute for debit  
19 calls, and \$.25 per minute for collect calls.  
20 While still higher than I would have liked, the  
21 relief for family and friends has been tremendous.

22 Since February when the rates went into

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1 effect, I've heard from providers that call  
2 volumes have increased as much as 30 percent.

3           In addition to rate caps the Commission  
4 also made clear that regardless of the value of  
5 benefits, that site commissions may provide to  
6 inmates through welfare programs or other  
7 services, such payments should not be a part of  
8 the Inmate Calling Rates because they have no  
9 direct bearing on the cost of providing  
10 communication services.

11           Although the D.C. Circuit did stay part  
12 of the reforms, the court left in place the  
13 Commission's rate caps and critical findings on  
14 the nature of site commissions.

15           While a critical first step, the FCC's  
16 order acknowledged that we have more work to do.  
17 We asked a series of questions in the further  
18 notice of Proposed Rule Making on additional  
19 reforms including permanent rate caps, extended  
20 reforms to intrastate rates, and reforms on  
21 ancillary services.

22           To ensure that results are firmly

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1 grounded on the best data, we also required that  
2 all providers of inmate calling service file data  
3 with their costs and that is due no later than  
4 July 17th.

5           But today's workshop provides a unique  
6 opportunity to evaluate the impact that these  
7 reforms have had to date on inmates, consumers,  
8 providers, and correctional facilities, and it  
9 allows this agency to continue to ask how best to  
10 structure additional reforms, to ensure just,  
11 reasonable, and fair rates for both the consumer  
12 as well as the provider.

13           So as we evaluate our next steps, it  
14 remains my hope that the states will follow the  
15 FCC's lead, grab the baton, and enact their own  
16 reforms. So I am particularly pleased that you  
17 will hear today about Alabama's inmate calling  
18 reforms adopted just last week.

19           Unfortunately, as I stand here, Alabama  
20 is the exception, not the norm. Despite our cry  
21 for intrastate reform, the call has largely gone  
22 unanswered.

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1           I still hope, however, that other states  
2 will move and do so soon. But I feel that the FCC  
3 has both the duty and the authority to act under  
4 the statute if the states so not, or cannot.

5           While I hope it will not come to that,  
6 if it does I will strive to find a path where FCC  
7 reforms could act as a ceiling or default if  
8 states have not or will not act.

9           After we adopted the reforms last year I  
10 shared with staff, who worked so tirelessly on  
11 this item, that this action will have an immediate  
12 impact on people's lives.

13           Thank you notes came in almost  
14 immediately, and thanks to the leadership and  
15 support of Chairman Wheeler additional reforms to  
16 the inmate calling regime remains a top priority.

17           So once again, I'd like to thank the  
18 organizers of today's workshop. They have worked  
19 long hard hours to put this together.

20           So to the Wire Line Bureau and Consumer  
21 and Government Affairs Bureau, you are terrific.  
22 Particularly Greg Hulegion (ph) and Lynne

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1 Engledow. I always mess up names here; I'm really  
2 famous for that, but thank you, nonetheless.

3           So now we'll turn the mic over to  
4 Commissioner Rosenworcel who has been a friend and  
5 supporter in this effort, and I again thank all of  
6 you for this role in this -- your role in this  
7 worthwhile effort.

8           Commissioner Rosenworcel.

9           (Applause.)

10           COMMISSIONER ROSENWORCEL: Good morning.  
11 First of all, let me thank Chairman Wheeler, and  
12 the staff of the Agency for holding this session  
13 today. But most of all let me thank all of you for  
14 being here and being a part of it.

15           Now, I think when it comes to forces for  
16 good in this world, you can usually find that  
17 there are some strong women standing behind them,  
18 and in this case there are two women you need to  
19 know.

20           The first is Martha Wright, who more  
21 than ten years ago found that it was unreasonably  
22 expensive for her family to communicate with her

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1 grandson while he was incarcerated, and she  
2 thought that wasn't right so she did something  
3 that was extraordinary, just for a regular  
4 citizen. She decided to petition the Federal  
5 Communications Commission and pressure us to do  
6 something about it.

7           So the second women you need to know is  
8 my colleague Commissioner Clyburn who ten years  
9 after that petition was filed dusted it off and  
10 said it was more than time for action.

11           Under her leadership last year we did  
12 something about this. We made sure that families  
13 that are often separated by hundreds of miles from  
14 their incarcerated brethren have an opportunity to  
15 stay in touch.

16           We made sure that when they called their  
17 family they don't actually have to spend as much  
18 for a single phone call as everyone in this room  
19 spends for their monthly unlimited wireless plan.  
20 She thought that wasn't right, and I'm proud to  
21 have joined her and done something about it.

22           But I don't think we're done. We've got

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1 a road ahead. We've got to figure out how to  
2 respond to the musing of a certain court. We've  
3 got to make sure those interim rate caps we put in  
4 place become permanent. We need to do something  
5 about ancillary charges, and then we need to work  
6 with our state counterparts, and not just Alabama,  
7 but in every state in this country to figure out  
8 how we can address the problem of intrastate  
9 rates.

10 I think getting here today, gathering  
11 like we are, is the start of it and I think if we  
12 all work together we can make sure that though  
13 justice has been delayed, it won't be denied.  
14 Thank you.

15 (Applause.)

16 MODERATOR ZESIGER: Thank you. Now,  
17 will Panel One please come up and our moderator is  
18 Kalpak and Rhonda, will be sitting over here.

19 MR. GUDE: It's not often are able to  
20 start, not only on time, but a little early. So  
21 hopefully this is a start of a good trend for  
22 today.

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1           I wanted to take the opening to thank  
2 everyone for coming, particularly our  
3 distinguished panel and all of our panels for the  
4 day. I think we have set up a very interesting  
5 program, and a set of discussions, which we hope  
6 will further the understanding of the Commission,  
7 and the understanding of all of us, on these  
8 complicated issues with respect to ICS.

9           It is something, as you just heard from  
10 the Chairman and from our Commissioners, this is  
11 something that is on the top of the priority list  
12 of a set of issues for the Commission to address.  
13 My staff in the pricing division of the Wireline  
14 Competition Bureau is tasked with handling it and  
15 addressing it as quickly as possible, and we are  
16 working a pace to move this along. I think this  
17 workshop, and the continuing dialogue that we have  
18 with others, is a strong effort to do that.

19           Let me start right off by introducing my  
20 co-moderator, Rhonda Lien, who is a member of my  
21 team in the Pricing Division, and I'll quickly  
22 introduce the panelists, and then I think our plan

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1 is to give each of the panelists five minutes to  
2 introduce themselves and provide a presentation of  
3 their thoughts on the issue, and then we will have  
4 some questions that first the staff of the FCC  
5 have put together, and then we'll open it up to  
6 questions from the audience, from the Internet,  
7 from far and wide.

8           This panel is, our panel one, is to  
9 discuss the impact of reform and the potential  
10 need for additional reform. Obviously, that's the  
11 central issue of the day. We have some other  
12 panels that will follow that get into more  
13 details.

14           Our panelists include Darrell Baker, who  
15 is from the Alabama Public Service Commission;  
16 Cheryl Leanza, Policy Advisor from the United  
17 Church of Christ; Talila Lewis from Helping  
18 Educate to Advance the Rights of the Deaf, or  
19 HEARD; Jesse Wiese, Policy Analyst at the Justice  
20 Fellowship; Karina Wilkinson, from the New Jersey  
21 Advocates for Immigrant Detainees; and Paul Wright  
22 from Human Rights Defense Center.

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1           So with that, I would like to turn it  
2 over first to Mr. Baker to start us off. Thank  
3 you very much.

4           MR. BAKER: Thank you. I thank the FCC  
5 for the opportunity to participate in this  
6 workshop and for consideration of my comments.

7           Alabama has an ongoing Inmate Calling  
8 Service Reform Proceeding. Our second order  
9 within the past 12 months was released Monday. In  
10 2009 Alabama capped inmate calling service,  
11 operator surcharges, and user rates.

12           I'm of the opinion that the reforms thus  
13 far, though significant, have had very minimal  
14 impact because the preponderance of inmate calling  
15 is intrastate.

16           The ICS industry can be compared to a  
17 multi chamber balloon. If you squeeze one chamber  
18 the contents will simply displace to another.  
19 Until both jurisdictions are addressed there will  
20 be no substantive relief for the majority of  
21 inmates and their families. Moreover, until  
22 sources of ICS revenue in each jurisdiction are

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1 addressed, the industry will simply adjust for  
2 lost revenue in one area by charging more in  
3 another.

4           The sources of revenue are calling  
5 rates, ancillary charges, charges for single  
6 payment services, and charges for other services,  
7 such as video visitation, voice mail, etcetera.

8           Further reforms are necessary. I  
9 recommend a tiered rate structure. Cost supports  
10 shows that jails are more expensive to serve than  
11 prisons. Small jails are more expensive to serve  
12 than large county or metropolitan jails.  
13 Alabama's recommend ICS rates include lower rates  
14 for prisons. Future intrastate call studies will  
15 break this down even further.

16           Ancillary charges or fees will be  
17 addressed in Panel Two. For some providers end  
18 user fees account for 40 percent or more of the  
19 charges inmate families must pay.

20           Single payment services are inmate  
21 collect calls billed to recipient's mobile phone  
22 or to a credit card. The effective rates for

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1 these calls are as high as \$1 per minute.

2 Moreover, such calls constitute a de facto  
3 circumvention of regulated ICS call rates.

4           Providers will have you believe they  
5 have no control over the prices charged by third  
6 party services involved in single payment service.  
7 That assertion is blatantly false. If providers  
8 are permitted an alternative to regulated ICS  
9 rates it will encourage migration of calls to the  
10 more lucrative alternative. Since February alone  
11 when the FCC's interim rates were implemented  
12 several ICS providers quickly added their own  
13 single payment service offerings.

14           What is to prevent providers from  
15 establishing third-party intermediaries for  
16 prepaid, collect, and inmate debit service in  
17 order to circumvent that regulated rate structure?

18           Continuous voice biometrics should be  
19 separated from the rates. The FCC added two cents  
20 per minute to Pay-Tel's prepaid, collect, and  
21 inmate debit call cost to recover the cost for  
22 continuous voice biometrics.

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1           This is problematic because continuous  
2 voice biometrics is not provided in most  
3 confinement facilities. To my knowledge, it is  
4 provided nowhere in Alabama, therefore, most  
5 providers are charging rates that allow for  
6 continuous voice biometrics without actually  
7 offering it.

8           Video visitation service and prices  
9 should be regulated. Providers will have you  
10 believe that video visitation is not a  
11 telecommunication service, and therefore not  
12 subject to our jurisdiction. Nevertheless, there  
13 is a telephone instrument attached to the inmate's  
14 video visitation console and two attached to the  
15 visitor's console. The parties converse via  
16 phone.

17           Some inmate providers are pressuring  
18 confinement facilities to eliminate face-to-face  
19 visitation with the lure of 20 percent site  
20 commissions. Providers are employing additional  
21 practices, which concern me.

22           Confinement facilities incur costs for

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1 providing ICS. Actual confinement facility costs  
2 must be identified and recovered via ICS rates or  
3 the facilities have no incentive for encouraging  
4 inmate's access to ICS, to ensure the equipment  
5 remains operational, and to pursue new service  
6 offerings for inmates and their families.

7           When a single provider embarks on a  
8 strategy to control the industry and therefore  
9 exerts its will with regards to cost that all  
10 providers must incur, future cost savings are  
11 constrained, as are potential price reductions.  
12 Additionally, such conditions may present a  
13 barrier for new market entrance.

14           Currently, one dominant ICS provider  
15 controls more than 75 percent of all the patents  
16 in the ICS industry, and is actively shopping for  
17 additional patents to add to its portfolio. Its  
18 competitors must enter licensing agreements with  
19 the provider or face the threat of litigation.

20           The Department of Justice has well  
21 recognized guidelines for analyzing the level of  
22 consolidation within a particular industry in

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1 determining whether that level of consolidation  
2 represents market power and/or antitrust concerns.  
3 I raise this issue in order that the FCC, DOJ, or  
4 other Federal agencies may consider reviewing the  
5 (inaudible) practices being in the ICS industry,  
6 and determine whether the practices employed by  
7 one dominant provider are anti-competitive and an  
8 attempt to control industry prices.

9           Before I finish I wish to acknowledge  
10 Doug Dillard; we are a two-man show in Alabama.  
11 Doug Dillard's on my staff and has spent the past  
12 16 years researching this industry, inspecting  
13 jails, talking to inmates, and corresponding with  
14 sheriffs in Alabama. I thank you.

15           MR. GUDE: Thank you. Cheryl?

16           MS. LEANZA: Great. Hi, good morning,  
17 everyone.

18           I want to thank my colleague Mr. Baker  
19 for that really compelling testimony.

20           So I am here on behalf of the United  
21 Church of Christ. It's called OC Inc., is the  
22 Media Justice and Communication Rights Ministry of

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1 the UCC. The ministry is actually celebrating  
2 this year the 50th anniversary of the lawsuit that  
3 originally gave citizens the right to have  
4 standing and participate at Federal Communications  
5 Commission proceedings, so we're delighted to be  
6 here and see the fruits of that today, to see all  
7 these regular people here participating in an  
8 agency.

9           Like I think many people here today, I  
10 am also here to express extreme thanks to that  
11 Agency, to Commissioner Clyburn for her leadership  
12 while she was acting chair, and everybody who has  
13 helped move this issue forward, and taken a ten  
14 year old petition and at least made that a  
15 reality.

16           I have, actually, a couple of examples  
17 just as tokens. We talked about thank you notes,  
18 and I have a couple of thank notes from the state  
19 prison in Bridgeport, New Jersey, actually.

20           I just wanted to share these because,  
21 you know, these are inmates who wrote this letter  
22 to Chairwomen and Commissioner Clyburn to tell her

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1 thank you, and I think as all of us in Washington,  
2 D.C., know although we know that the Federal  
3 Communications Commission impacts people's daily  
4 lives, we on the inside, or even know where the  
5 FCC is know that, it's rare that regular ordinary  
6 people know that a federal agency has not only  
7 impacted their lives, but done something to make  
8 it better, and then that they wrote a thank you  
9 note.

10 Not only has this very fancy thank you  
11 note come in, but also this very plain two words  
12 on a piece of paper ripped off the top of a card,  
13 and I think it shows, you know, who here is --  
14 they're in prison, and what are thinking about?  
15 They're ripping off a piece of paper to write a  
16 note to say thank you. Like, this is not a small  
17 thing, even though it's just two words on a piece  
18 of paper.

19 So I want to be sure that -- I will  
20 submit these for the record, but I just wanted to  
21 show and illustrate the impact and the benefit,  
22 even though I think we have a long road to go, I

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1 think there's people who this is impacting know  
2 that it's impacted them and they're grateful for  
3 the change. So that's really beautiful.

4           One of the things that Unitized Church  
5 of Christ was able to contribute after the order  
6 that I also wanted to share for the record, was  
7 just some basic materials for families and for  
8 prisoners, and I'm sharing it today in large part  
9 because I want to be sure that lots of people are  
10 able to utilize them if -- it's still a pretty  
11 recent decision; February wasn't actually that  
12 long ago in the lives of many people, even though  
13 it was snowing then and now it's hot.

14           So we have a few things, the website is  
15 [UCCmediajustice.org](http://UCCmediajustice.org). But they're very simple  
16 FAQ's, what do I do links to state commissions if  
17 you're having trouble with your local calls, so I  
18 want that to be available to people, and I -- sort  
19 of an illustration.

20           I want to thank the FCC, which has been  
21 a pretty good partner. We had a lot of meetings  
22 as we led up to the implementation of the decision

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1 to make sure that people would be able to use the  
2 decision, that would really benefit them, and so  
3 they can always call the FCC's national call  
4 number, 888-CALLFCC, if they have trouble.

5           But one of the things that I would  
6 encourage the FCC to do, as we're all trying to  
7 grapple with this new decision, and evaluate its  
8 impact, is to go and look into its own data, into  
9 its own call center, into the bureaus that collect  
10 the information from the general public, tote that  
11 up, share that.

12           Let's pinpoint, are there places where  
13 we're seeing more calls or not, let's try to  
14 figure out if there's places that need more  
15 outreach, some people don't even know about it  
16 yet. You know, we should be seeing some activity  
17 there now that the rules are in place, and it  
18 would be useful to do that.

19           So of the recommendations I have, both  
20 now for the current decision, but then for other  
21 future decisions, is to be sure the FCC is really  
22 in a very affirmative posture. They have been

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1 great, but I think at this point, now that we're -  
2 - if we're having a workshop, then let's see what  
3 the FCC has in its data sites.

4           So those are two things that I was here  
5 -- the third thing I'm here to talk about today is  
6 just to really ask the FCC to move ahead on the  
7 local rates. As my colleague said, the majority  
8 of calls, especially when you talk about a jail,  
9 are local calls and many calls, even in prison,  
10 are local calls.

11           There are, unfortunately I think, there  
12 are a number of sheriffs around the country that  
13 have been very vocal at the FCC docket asking to  
14 the FCC to provide them special accommodation, and  
15 I think -- you know, we certainly should have a  
16 conversation about what's going on there, but I  
17 wanted to highlight, in fact, the example of the  
18 sheriff in San Francisco, Ross Mirkarimi, and I'm  
19 going one to probably slaughter his name, but --  
20 who is actually working to bring down the rates in  
21 his jail because he thinks they're too high, and  
22 he called the high rates that were being charged

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1 in the San Francisco jail immoral.

2 He said that 39 percent of the men and  
3 women in his jail in San Francisco are parents,  
4 and he releases some data, which I'll also submit  
5 to the record; it was actually documented in the  
6 San Francisco Chronicle, but 82 percent of the  
7 300,000 calls in about a year from his jail are  
8 local calls.

9 So the FCC's decision did a lot, but it  
10 certainly did help for large numbers of the people  
11 who are in the jail in San Francisco.

12 So in sum, I want to thank the FCC for  
13 the opportunity and the hard work, and hope that  
14 we can move ahead, looking not only at local  
15 rates, but some of the other important issues,  
16 like my colleague Talila will be talking about,  
17 the rights for disabilities; I think there's a  
18 number of pieces of unfinished business left.  
19 Thank you.

20 MR. GUDE: Thank you, Cheryl. Talila?

21 MS. LEWIS: Good morning, everyone.

22 First, I would like recognize members of

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1 the deaf and disability community who are here  
2 with us today signaling our deep and unwavering  
3 commitment to universal access and equality, and  
4 then secondly, of course I would like thank the  
5 FCC for hosting this panel and for seeing fit to  
6 put me on it.

7           One year ago I sat here at this table  
8 and I was very hopeful that our leadership would  
9 take positive steps toward ensuring that Inmate  
10 Calling Services were affordable and accessible  
11 for all prisoners and their families.

12           Among other things, I shared that inmate  
13 calling service providers, departments of  
14 corrections across the nation, were both in  
15 violation of federal disability rights laws that  
16 mandate equal access to programs, services, and  
17 activities for all people with disabilities.

18           I explained that accessible  
19 telecommunications is paramount for deaf  
20 prisoners, particularly because their  
21 incarceration is filled with language deprivation  
22 that is not compared to a hearing prisoner's.

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1 Also, their incarceration is filled with physical  
2 and sexual assault, not compared to prisoners who  
3 are fully able bodied, and who are hearing.

4 Also because of their incarceration  
5 experience is filled with depressing isolation  
6 that leads to mental health conditions that  
7 actually require that they actually have more  
8 contact with people who can communicate in a way  
9 that is effective for them.

10 I also shared that the FCC's own reports  
11 indicate that TTY calls are 12 percent of the  
12 total relay volume in the United States and that  
13 75 percent of all accessible telephone calls made  
14 through relay in the United States are actually  
15 made through video phones. But despite that fact,  
16 at that time, only three prisons across the nation  
17 had videophones installed.

18 Today we are all here again holding out  
19 hope for meaningful action from our leadership  
20 because notwithstanding the Commission's September  
21 26th order, thousands of deaf and hard of hearing  
22 prisoners across the nation, and prisoners with

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1 speech challenges are continuously and continually  
2 disconnected and cannot communicate with family,  
3 loved ones, advocates, anyone.

4           While we applaud the Commission's  
5 efforts to ensure that rates for Inmate Calling  
6 Services are just, reasonable, and fair, we again  
7 remind the Commission that there is no fairness  
8 without equality. Anything short of a Commission  
9 order mandating universal accessibility for Inmate  
10 Calling Services for departments of corrections  
11 across the United States will leave countless  
12 prisoners and their family members exactly where  
13 they were prior to the Commission's decision,  
14 which is completely disconnected.

15           HEARD's deaf prisoner phone justice  
16 campaign, which is now in its 18th month,  
17 mobilized unprecedented participation from deaf  
18 prisoners across the nation. More than 100 deaf  
19 prisoners submitted comments, as did family  
20 members of deaf prisoners, deaf family members  
21 with hearing incarcerated loved ones, and  
22 organizations including the American Civil

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1 Liberties Union.

2           Among other things, these prisoners  
3 requested very basic things like operational,  
4 affordable, and equal telecommunications access,  
5 including videophones, caption telephones, working  
6 TTY's that they actually have access to, and rates  
7 that take into account the despairingly slow and  
8 consistently unreliable communication via TTY from  
9 prison.

10           Last year I believed that simple  
11 principals of equity and justice would lead those  
12 in positions of power down the right road, and so  
13 I spared you many details of what goes on in our  
14 prison system for people who have disabilities,  
15 and people who are deaf.

16           I did not tell you that in the past  
17 three years there have been just three weeks where  
18 I did not receive a report from a deaf prisoner,  
19 and advocate, or a loved one about physical or  
20 sexual assault of a deaf prisoner. That countless  
21 deaf prisoners do not sleep or shower for fear of  
22 sexual assault. That deaf prisoners have traded

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1 their bodies to make telephone calls with loved  
2 ones through hearing prisoners who have complete  
3 and full access to telecommunications.

4 I did not tell you that as rampant as  
5 sexual assault is against people with disabilities  
6 and deaf prisoners in our justice system, or  
7 correction system, that of the 500 prisoners that  
8 we have found, not one can access the stop rate  
9 hotlines or the FCC hotline that Cheryl here just  
10 mentioned, to make note of the things that are  
11 going on in our prisons. That is how isolating  
12 being deaf in our prisons is with the current  
13 system.

14 I have not told you how multiple cases  
15 of deaf wrongful conviction that HEARD believes  
16 are probably cases of wrongful conviction, we  
17 cannot even investigate because we cannot  
18 communicate with those who communicate in ASL,  
19 because video phones are not set up in prisons  
20 across the nation.

21 I did not share that deaf prisoners  
22 report abuse most often after filing grievances

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1 about lack of communication access at prisons,  
2 including lack of access to telecommunications.  
3 Or that solitary confinement is often used as a  
4 substitute for the provision of accommodations  
5 for, and protections to, this group of  
6 individuals.

7 I share these to illustrate two main  
8 things. The first is that there's an ongoing  
9 crisis in our prisons, particularly related to  
10 conditions of confinement for people with  
11 disabilities, and people who are deaf, and second  
12 to dispel the myth that this is a deaf problem,  
13 that this is an incarcerated person problem; this  
14 is an American and societal problem that needs to  
15 be addressed immediately.

16 Since all departments of corrections and  
17 ICS's have the same requirements under federal  
18 law, that all people with disabilities should be  
19 included, not retaliated against, and have equal  
20 access to programs, services, and activities at  
21 any prison receiving federal funding, and in any  
22 public accommodation, which the Supreme Court has

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1 determined that prison are a public accommodation,  
2 and that the Supreme Court has established that  
3 everything that we determine about conditions of  
4 confinement should be based on the concept of  
5 evolving standards of decency, then we should make  
6 sure that ICS companies, providers, and  
7 departments of corrections are fully aware of  
8 disability rights, and what disability access  
9 looks like.

10           The only way to do that is from our  
11 people in positions of power, people in the  
12 Federal Communications Commission, people at the  
13 Department of Justice, please take action on this  
14 issue.

15           I have other information about state  
16 campaigns but I will hold those for questions.  
17 Thank you.

18           MR. GUDE: Thank you. Jesse?

19           MR. WIESE: Thank you. Thank you to our  
20 moderators, Chairman Wheeler, Commissioner  
21 Clyburn, and Commission Rosenworcel.

22           Justice Fellowship is the advocacy

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1 division of Prison Fellowship Ministries and works  
2 to reform the criminal justice system by advancing  
3 the principals of restorative justice.

4           Prison Fellowship is currently active in  
5 over 380 prisons in the United States and remains  
6 the largest prison ministry in the world.

7           Through Justice Fellowship, Prison  
8 Fellowship Ministries has advocated for Inmate  
9 Calling Service reform for several decades, and  
10 its grateful to the Federal Communications  
11 Commission for recognizing this as an important  
12 issue, and for adopting reasonable rate caps for  
13 interstate phone calls.

14           Though the impact of interstate only  
15 reforms may not appear to be substantial in light  
16 of the larger problem of intrastate calls, it is  
17 important, I think, to emphasize that these  
18 reforms do provide a positive impact on thousands  
19 of family's budgets.

20           As someone who was incarcerated for over  
21 seven years with the majority of my family being  
22 out of state, I can personally attest that this

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1 simple reform would have saved my family thousands  
2 of dollars.

3 In addition to these long await fiscal  
4 savings these reforms have an impact on public  
5 safety. Research has shown that maintaining family  
6 relationships is a significant factor in the  
7 reduction of recidivism.

8 For example, the Jane Adams Center for  
9 Social Policy and Research determined that family  
10 roles and relationships are important in reentry  
11 planning. Family connections and other social  
12 networks impact not only families and children's  
13 well being, but also the achievement of social  
14 goals such as the reduction of crime, and the  
15 building of vibrant communities.

16 Additional research shows that released  
17 prisoners who had closer family relationships and  
18 stronger family support, were more likely to have  
19 worked after release and were less likely to have  
20 used drugs.

21 These findings have long been recognized  
22 by corrections officials, and even the Federal

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1 Bureau of Prisons states that telephone privileges  
2 are a supplemental means of maintaining community  
3 and family ties that will contribute to an  
4 inmate's personal development.

5           When released prisoners have a  
6 supportive family they are more likely to find a  
7 job, less likely to use drugs, and less likely to  
8 be involved in criminal activities.

9           Creating easily accessible and  
10 affordable communication mediums helps maintain,  
11 and in many instances, rebuild these important  
12 family ties.

13           In light of this public safety impact, I  
14 would strongly encourage the FCC to extend the  
15 price caps to other communications within its  
16 jurisdictional authority, such as international  
17 calls. I would also suggest that the Commission  
18 begin to closely monitor the costs of other  
19 interstate communication mediums, such as email,  
20 video conferencing, and voicemail.

21           Long distance communication by telephone  
22 is quickly becoming a medium of the past, and

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1 though the bureaucracy of corrections is typically  
2 slow to implement technological changes, state and  
3 federal corrections are beginning to shift to more  
4 advanced communication methods, and if history is  
5 any indicator, it is only a matter of time before  
6 these updated forms of communication will be  
7 subject to the current immoral policies we find  
8 ourselves fighting today.

9           Despite the Commission's recent reforms  
10 on interstate calls, there is still much work to  
11 be done in bringing relief to the millions of  
12 American families with an incarcerated loved one  
13 who reside in the same state.

14           Intrastate calls vastly outnumber  
15 interstate calls and much of the heavy lifting is  
16 now left to the states.

17           Though we don't believe the Commission  
18 should regulate intrastate calls, it can still be  
19 a vital part of the reform process by becoming a  
20 substantial resource for state public utility  
21 commissions that desire to implement similar  
22 reforms.

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1                   Assisting state public utility  
2 commissions and organizations such as the National  
3 Association of Regulatory Utility Commissioners to  
4 provide educational forums such as the one we are  
5 sitting at today, or workshops on how to  
6 successfully implement similar inmate calling  
7 service reforms at the state level, as well as  
8 encouraging other forms of communication, could be  
9 very helpful in advancing meaningful reform.

10                   Justice Fellowship strongly believes  
11 that these unjust prison telephone policies must  
12 be eradicated.

13                   Adopting such policy reforms will  
14 facilitate more communication between incarcerated  
15 men and women and their families enabling them to  
16 draw from the encouragement and accountability  
17 that those relationships provide.

18                   Keeping these relationships a priority  
19 enhances the well-being of men and women who are  
20 incarcerated, and protects the well-being of our  
21 communities.

22                   Justice Fellowship looks forward to

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1 continuing this dialogue with the FCC, and will  
2 continue to work with the state and local  
3 governments on this important reform.

4 Thank you.

5 MR. GUDE: Thank you, Jesse.

6 Karina?

7 MS. WILKINSON: Hi. I also want to  
8 thank the Commission for the opportunity to speak  
9 here today, and for their leadership.

10 New Jersey has high rates and  
11 commissions, and just two inmate phone service  
12 providers operating in the state, Global Tel Link  
13 and Securus, so I wanted to describe the changes  
14 that have happened since the FCC order was  
15 implemented.

16 For state prisons the Department of  
17 Corrections in New Jersey eliminated their  
18 commission that netted the state \$4 million last  
19 year, and dropped the flat rate of \$.33 eventually  
20 to \$.17 for both inter and intrastate calls. The  
21 initial negotiations dropped the rate to \$.19 on  
22 February 11th, and then separate negotiations on

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1 the March contract renewal dropped it to \$.17.

2           Neither the state nor the counties  
3 negotiated any change for the intrastate rates for  
4 the county jails, they only changed the interstate  
5 rates to meet the caps and the phone companies  
6 eliminated the commission on the interstate calls  
7 only.

8           So intrastate rates remain high, in some  
9 cases more than twice as much as the interstate  
10 cap, so the calls are \$7.75 or \$8.50 for a 15-  
11 minute call in most of the counties in New Jersey.  
12 Prior to the order some of the interstate rates  
13 has been as high as \$15 for 15 minutes.

14           Bergen County, New Jersey, is the only  
15 county that independently contracts with Global  
16 Tel Link. Though public records requests we  
17 received a letter from Global Tel Link to Bergen  
18 County Sheriff's Department offering to raise  
19 other rates and fees, presumably the interstate  
20 rates, to offset the losses from GTL's eliminating  
21 the commission on interstate calls following the  
22 FCC order.

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1           Bergan County is scheduled to put out a  
2 request for proposals for a new contract sometime  
3 this summer. The board had approved the request  
4 going out last December.

5           Though either of the two ways that the  
6 counties can contract independently or through the  
7 state contract, no county takes less than 50  
8 percent commission. The highest in New Jersey is  
9 70 percent.

10           In terms of our New Jersey Phone Justice  
11 campaign, we had already been gathering the data  
12 from the state DOC and all the counties, and last  
13 year we had updated all that data. Once the order  
14 went into effect we redid our public records  
15 request to see what changes had happened.

16           Over the past several year's attempts  
17 have been made to get similar legislation to what  
18 the legislation that exists in New York, where  
19 they eliminated commissions and made the winning  
20 bids have lowest rates rather than highest  
21 commissions.

22           The governor in New Jersey and the

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1 legislature overall where unwilling to make the  
2 sacrifice, though we have support from individual  
3 legislators.

4           In response to the FCC order the state  
5 eliminated the commissions but the contract is up  
6 for renewal in September. The county intrastate  
7 rates, except for the most local calls, as I said,  
8 remain higher than the new interstate rates.

9           We have consistently heard from  
10 immigrant detainees about the burdens of high  
11 rates, and because most of the rates weren't  
12 coming down to even the safe harbor rate, and  
13 because we saw little change of getting  
14 legislation, in late April our coalition filed a  
15 petition with the New Jersey Board of Public  
16 Utilities asking them to regulate rates and cap  
17 them at \$.05 per minute, comparable to what New  
18 York State has, and we also asked for the  
19 elimination of commissions.

20           You can find our petition at  
21 NJPhoneJustice.org. The petition was filed in  
22 collaboration with the New York University School

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1 of Law, Immigrant's Rights Clinic, Latino Justice  
2 Praldev (ph), the New Jersey Institute for Social  
3 Justice, and the Firm of DLA Piper. They all  
4 worked on the petition and we have many more  
5 supporting organizations, including the ACLU of  
6 New Jersey.

7           We came to the issue because New Jersey  
8 has some 2,000 jail beds that are contracted for  
9 use by Immigration and Customs Enforcement.

10           Immigrant detainees, since they are in  
11 administrative proceedings, have no right to an  
12 attorney if they cannot afford one for their  
13 immigration cases. They need to gather documents  
14 to present to the court, so having fair phone  
15 rates is critical for them.

16           The other thing that I'll mention is  
17 that we started in Newark because we discovered  
18 that as the expansion of detention beds in Newark  
19 was taking place a new contract was signed between  
20 Homeland Security and Essex County in 2012, and in  
21 that contract the county was prohibited from  
22 commissions on immigrant detainees calls.

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1           We wrote to the county executive and  
2 informed ICE's Newark Field Office Director. The  
3 written response from the county was that they  
4 would not eliminate the commissions, and would  
5 only lower phone costs if they would keep the  
6 revenue the same.

7           So we calculated that the county makes  
8 approximately \$900,000 per year on calls by  
9 inmates and detainees, so they're tied to the  
10 state contract so any renewal or change in the  
11 commissions for Essex County would also come up in  
12 September. Thank you.

13           MR. GUDE: Thank you, Karina. Finally,  
14 Paul?

15           MR. WRIGHT: Hi, I'm Paul Wright from  
16 the Human Rights Defense Center, I'd like to thank  
17 the FCC Commission for inviting me to speak today,  
18 and I'd also like to thank the Commission two for  
19 the leadership its shown on the issue of prison  
20 phone rates.

21           The Human Rights Defense Center was also  
22 one of the organizations that founded the Prison

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1 Phone Justice Campaign to bring public awareness  
2 and attention to the issue of prison phone rates,  
3 and we encouraged the FCC to act starting back in  
4 2011, and while the interim rate caps have been  
5 great, as we heard from previous speakers, there's  
6 a lot to be done.

7           One of the things that is still an  
8 issue, of course, is the issue of jails and calls  
9 from local detention facilities and the in-state  
10 calling rates.

11           Some of the things, as far as numbers  
12 go, is we looked at the Los Angeles Jail, it's the  
13 largest jail in the country, and their phone rates  
14 are also among the highest. The jail receives a  
15 67 percent commission on the phone calls made, and  
16 that's totaling over \$40 million a year.

17           When we think about the numbers, on any  
18 given day the Los Angeles Jail is averaging around  
19 21,000 prisoners a day, which is larger than the  
20 populations of the five smallest prison systems  
21 combined. For example, it's more than the prison  
22 system of the State of Vermont, which around 1,500

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1 to 1,800 prisoners. So the numbers are fairly  
2 large and there's a lot that remains to be done.

3           So far we have eight states that do not  
4 receive commissions on their phone calls, and I  
5 thin its telling that in all eight of those  
6 examples the decision to not accept commissions  
7 from the telecom industry was the result of  
8 outside action from the utilities commission, the  
9 legislature, or the government's office through  
10 executive action.

11           I think it's also critical that we note  
12 that in no cases that a requirement, or a demand,  
13 that prison and jail accept commissions or  
14 kickback from the telecom industry and they gouge  
15 consumers. In fact, it's a perverse world indeed  
16 where we have a situation where contracts are bid  
17 out based on how much money is going to go to the  
18 agency rather than who can provide the lowest cost  
19 to the consumer.

20           In at least four states, this includes  
21 Virginia, Colorado, Florida, and Tennessee, the  
22 utilities commission either does not have

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1 authority, or the courts have held they do not  
2 have authority to regulate the cost of prison  
3 telephone calls, which leaves the FCC as the only  
4 regulatory body that would have that authority to  
5 do so.

6           The previous speakers have noted the  
7 high impact that ancillary fees have also caused  
8 on consumers who receive calls from people in  
9 detention facilities. This continues to be an  
10 ongoing issue, and in fact is one that's largely  
11 been unaddressed by most of the regulatory reforms  
12 we've seen in different parts of the country.

13           Some of the utility commissions that  
14 have tried to address this have been the Louisiana  
15 utilities commission, and despite an order that  
16 the cease collecting the ancillary fees, the  
17 telecoms in that state have continued to do so in  
18 defiance of the state utilities commission.

19           Some of the issues that we've also seen  
20 too, I think as Commissioner Baker referred to is  
21 as the balloon that you step on in one place it  
22 bulges out somewhere else, is we also see some of

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1 the contracts, for example, in Washington state --  
2 in Washington State, which has historically had  
3 some of the highest prison phone rates in the  
4 country, the Washington DOC has received a \$5.1  
5 million upfront fee at the signing of the contract  
6 each year, and one of the things is that they  
7 don't have a -- they do not have -- the calls are  
8 not being billed per minute, rather the calls are  
9 being billed on the flat fee for a 15 to 20 minute  
10 call, which results in a very high individual per  
11 minute fee, if that's calculated out.

12           We also have situations there were many  
13 times the calls are not able to be for the entire  
14 20 minute duration, rather they're cut off before  
15 then. We also have quality of service issues that  
16 permeates the ICS industry as well, that are not  
17 really addressed by the issue of fees.

18           For example, calls that are prematurely  
19 terminated resulting in call backs and more fees  
20 and more charges. These, I think are issues that  
21 need to be addressed by the FCC as well.

22           So we'd like to applaud the fact that

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1 FCC has shown leadership on this issue, and needs  
2 to continue to show the leadership and enforce its  
3 statutory duty and responsibility to ensure that  
4 all consumers have access to fair and reasonable  
5 phone rates, even if those consumers have loved  
6 ones who are in detention facilities.

7           Nothing will show prisoners that the law  
8 applies to everyone more than enforcing the rule  
9 of law for everyone, even prisoners and their  
10 families, and protecting them from rapacious  
11 gouging by ICS providers and the government  
12 agencies, and ending the process of monetizing  
13 human contact.

14           Recognizing the right to communication  
15 as a human right and a fundamental one that should  
16 not monetized, and enforcing the FCC's mandate  
17 that phone rates be reasonable and fair is, I  
18 think the obligation of the FCC and one that we  
19 hope they will extend to the instate phone calls  
20 as well. Thank you very much.

21           MR. GUDE: Thank you very much. I think  
22 that was very helpful. Now, I'd like to start out

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1 with a discussion and really open it up for folks  
2 to share your thoughts across so we make ask  
3 questions to individuals, but feel free to jump  
4 in, even if your name wasn't called for the  
5 question, and feel free to share your thoughts.  
6 Cheryl?

7 MS. LEANZA: May I just make one point?  
8 I know both Darrell and Paul had mentioned  
9 something about the differences between jails and  
10 prisons, and that's a very important point, and I  
11 do want to mention that we'll be discussing it  
12 later this afternoon in Panel Three. So we will  
13 circle back and talk about that later.

14 MR. GUDE: Okay. But the first question  
15 I wanted to ask is, as we have investigated the  
16 issue, clearly site commissions is a running  
17 theme, and we've heard it in many of your opening  
18 comments as well. We've heard it from all sides in  
19 this debate that site commissions are a  
20 significant, if not the significant driver of  
21 costs in very high phone rates in the ICS  
22 industry.

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1           On the other hand, we've heard from  
2 facilities saying the charges, or the payments,  
3 the site commission payments that are made, are  
4 used for many times critical services that benefit  
5 inmates, benefit those incarcerated individuals,  
6 whether it be through different simple things of  
7 board games and entertainment, whether it be  
8 blankets, whether it GED programs; lots of other  
9 inmate benefits, or services.

10           The question that we have as a  
11 Commission is, one, is it appropriate and  
12 consistent with the Act for the Commission to even  
13 look at that? The Act itself says just,  
14 reasonable, and fair. So is that even appropriate  
15 for the Commission to look at?

16           But from a consumer end, from an  
17 advocate for inmates, what are your thoughts on  
18 the potential loss of such services, and how that  
19 would play out?

20           MR. WRIGHT: I'd like to address that.  
21 I think as far as -- this is one of the excuses  
22 that I think has been used as a reason and a

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1 rational to try to maintain these high kickbacks.  
2 In some states, for example Georgia, the Georgia  
3 Department of Corrections states that it uses the  
4 bulk of the phone commissions that are received to  
5 provide mental health treatment for mentally ill  
6 prisoners.

7 I think it's one of those things that  
8 once a state chooses to incarcerate people the  
9 have certain constitutional obligations to meet  
10 and providing mental healthcare is one of those  
11 obligations, and does anyone really think that the  
12 State of Georgia is going to stop providing mental  
13 health care treatment, force mentally ill  
14 prisoners, if say for example, prisoners stop  
15 making phone calls. These are, I think, some of  
16 the fallacies with this.

17 I think it's also critical to note that  
18 there's no obligation or statutory duty that -- as  
19 to what states do with the money the received from  
20 the phone commissions that they receive, and some  
21 states it reverts to the general fund, in other  
22 states it may go to Department of Corrections, and

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1 there's no obligation or duty that the money  
2 actually go to benefit prisoners.

3           Even if it does, I think we're  
4 forgetting that we're not writing on blank state  
5 here. Prisons have had telephone services since  
6 the early 1970s. The commissions and the kickback  
7 model did not come into vogue until the late  
8 1980s. So we have a 20-year period where services  
9 were provided to prisoners and they were paid for  
10 from other sources, such as commissary sales,  
11 donations, and other means.

12           So it's not like if the money goes away  
13 these services are not going to be provided, and  
14 we have the example of eight states that  
15 eliminated commissions. New York State was  
16 receiving over \$20 million a year from phone  
17 commissions before they eliminated commissions.  
18 Last I heard the New York Department of  
19 Correctional Services are still functioning and  
20 services are still being provided to prisoners, so  
21 I would respectfully submit to the FCC that this  
22 whole argument is, for lack of a better term, a

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1 red herring.

2 MS. LIEN: I just wanted to make two  
3 points. I just want to make two points on top of  
4 Paul's excellent advocacy, as always. First of  
5 all what's really inappropriate about these fees  
6 is that they fall disproportionately and only on  
7 the families of the incarcerated. We don't have -  
8 - when we have taxes to take care of our public  
9 parks and our national defense we don't tax on  
10 particular part -- if you're a family of soldier  
11 then you have to pay more to call them, because  
12 it's really expensive to run the Army. I mean,  
13 that's not fair.

14 That's -- these people already are  
15 undergoing a lot of difficulty in their lives,  
16 there's no reason why friends and family have to  
17 be the one to support the services that are  
18 required to be given, as Paul said.

19 I think the second thing goes to a  
20 Communications Act point, which is that, no,  
21 unfortunately the FCC, whether it's good or not  
22 good, the FCC is not permitted to allow an

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1 unreasonable rate because it's done for a good  
2 cause. If Verizon suddenly wanted to charge  
3 certain mobile phone users a really high rate, but  
4 they're like, but don't worry, we're going to take  
5 all the money and we're going to give it to a  
6 really good cause, it's still illegal; you can't  
7 do it.

8           So I mean, I think whatever the  
9 justification is in the minds of the folks who are  
10 collecting those fees, the Federal Communications  
11 Commission has to enforce its statute, which I  
12 think has a consequence of actually being fair  
13 because you don't want certain consumers to  
14 subsidize particular services, that's very unfair,  
15 but I don't think that the Commission really has  
16 the ability to look to into it, even if it wanted  
17 to.

18           MR. GUDE: Thank you. Darrell, I wanted  
19 to bring you into this conversation, willingly or  
20 unwillingly, because I know this has been a  
21 challenge for everyone looking at this industry,  
22 and your thoughts on this question, and the

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1 broader challenges that you faced as Alabama  
2 looked at reform.

3 MR. BAKER: Well, I'm not here to  
4 advocate for or advocate against site commissions.  
5 The way that we look at it is the have been a  
6 fact, they are there, and at the state and local  
7 level governments are required to balance their  
8 budgets. So we have to consider the public  
9 interest, in terms of those budgets and policy  
10 makers have to be given an opportunity to adjust  
11 if those site commissions are reduced.

12 I think it would be equally wrong to  
13 come in and immediately flash cut and say you have  
14 to remove this from your budget, and then you  
15 create a funding crisis at the state and local  
16 level.

17 So that's why Alabama is looking at  
18 transitioning these rates down.

19 MS. LIEN: Jesse, I have a question for  
20 you, you mentioned that you don't believe that the  
21 FCC should regulate local calls. You want to  
22 expand on that for us, please?

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1 MR. WIESE: You had to ask me that  
2 question. Yeah, I will just enter a caveat; I'm  
3 not an expert here, but just jurisdictionally from  
4 what I've looked at, but listening to Peter here  
5 on states that may have determined that they  
6 cannot regulate the calls within the state, their  
7 utility commission, perhaps the FCC may have  
8 jurisdiction. So I'd have to look into that a  
9 little bit more.

10 But just from our perspective  
11 organizationally, we are strong believers in  
12 federalism so trying to keep the reach of the FCC  
13 within its property boundaries, as well as trying  
14 to utilize the great reform that's happened here  
15 in other states as well. So just trying to marry  
16 the two there.

17 MS. LIEN: I'd like to follow up a  
18 little bit with Darrell. You've mentioned a few  
19 points; you've talked a lot about what's happened  
20 in Alabama. Can you just back up a little bit and  
21 perhaps give us a little bit higher level view of  
22 what has led to the very hard work, and the

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1 granted interim, but the reforms that led to the  
2 order that came out on Monday afternoon?

3 MR. BAKER: We actually began our look  
4 at reforming Inmate Calling Service approximately  
5 ten months before the FCC order came out, and our  
6 order came out in October of 2013. There was a  
7 comment cycle, and since that comment cycle we  
8 have developed this order and put a lot more  
9 research into the industry, and what's going on,  
10 and there is a comment cycle for this order that  
11 will last to August 11th. Then the proposed  
12 implementation date is October 1.

13 But once -- it's not over. I mean, in  
14 our order we establish that we're going to  
15 continue with cost studies, and we are looking at  
16 doing cost studies every three years. So this is  
17 just the beginning, it's not the end, and these  
18 are interim rates.

19 MS. LIEN: Can I follow up on something  
20 more specific too? You had mentioned that, and I  
21 did your order, you had mentioned that you found  
22 that FCC, the Federal Communications

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1 Communications dealings with voice biometrics to  
2 be problematic. Can you expand on that a little  
3 bit, please?

4 MR. BAKER: Yes. In the FCC's  
5 proceeding they looked at Pay-Tel's cost for  
6 inmate debit and for pre-paid collect cost, and  
7 they added two cents per minutes to it. That is  
8 for recovering continuous voice biometrics. The  
9 only problem is, in most cases, there are no  
10 continuous voice biometrics in confinement  
11 facilities.

12 There is voice authentication where you  
13 do a voice match of the inmate as they get on the  
14 phone to verify that it's them. The continuous  
15 voice biometrics goes from that point through the  
16 rest of the call. In most cases that's not  
17 employed in most confinement facilities.

18 So if you have allowed for continuous  
19 voice biometrics, and it's not being provided,  
20 then I would conclude that some are being  
21 overcharged.

22 MR. GUDE: Talila, I'd like your

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1 thoughts, further thoughts, on what changes you've  
2 noticed since the Commissions rules have gone into  
3 effect, and what more needs to be done with, as  
4 you mentioned in your opening, within the  
5 Commission's jurisdiction. What can the  
6 Commission do? And what could the Commission do  
7 that -- what worked and what didn't work, in terms  
8 of on the interstate side, and as the Commission  
9 looks at what further to do, what gaps have come  
10 out, at least at this point.

11 MS. LEWIS: So to be clear, right now  
12 deaf prisoners across the nation don't have access  
13 to telecommunications. I mean there are a few  
14 prisons where videophones have been installed. I  
15 think the big change hasn't actually come from the  
16 order necessarily, but from the increased dialogue  
17 surrounding disability justice.

18 So many people, including some of the  
19 folks in this room, who are presidents of  
20 telephone companies, came to me saying, hey, I  
21 thought what we had in our prison was sufficient;  
22 tell me more.

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1           So it's clear that people are  
2 interested. Departments of corrections have  
3 contacted me. But this shouldn't be something  
4 that me, the all-volunteer leader of a non-profit  
5 organization that is all volunteer should be  
6 providing.

7           This should be information that's  
8 provided by people in positions of power so we  
9 don't have to do this individual by individual,  
10 you know, basis education.

11           What I see as -- that would beneficial  
12 coming from the FCC would be guidance about  
13 disability. The FCC just established an all ASL  
14 consumer complaint hotline. Clearly, the FCC  
15 understands deafness, they understand disability,  
16 and it's easy enough for the FCC to then provide  
17 the information that it has in house in the next  
18 order to people who are interested in making sure  
19 that their services are accessible.

20           That's something that doesn't require  
21 any authority per say, but just requires someone  
22 taking the time to move it from one order to the

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1 next.

2 That's what I want to see at least at  
3 base, and there needs to be a strong emphasis from  
4 the FCC on providing updated telecommunications,  
5 which since we know that more than 75 percent of  
6 relay calls from videophones, why are there only  
7 video phones in six prisons across the nation?  
8 Why isn't the FCC and the Department of Justice  
9 saying more on this topic?

10 I believe that actually making  
11 information available to departments of  
12 corrections, to inmate calling services, and to  
13 family members so we know how we could be  
14 advocating, and loved ones, and advocates, and  
15 attorneys, that's actually what would be more  
16 beneficial than saying nothing on the topic at  
17 all.

18 MS. LEANZA: I wanted to endorse sort of  
19 that approach. I think particularly in Washington  
20 when there's so many agencies with complex  
21 jurisdiction, and obviously the FCC has certain  
22 amounts of jurisdiction, but it has other

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1 limitations, but I think there's a huge service to  
2 be made just in articulating those outlines.  
3 Well, who does have jurisdiction? Who does that?  
4 Who's the staff member that does it? Who could  
5 have a meeting? Can you convene another meeting?  
6 Can you convene a workshop? Can you convene a  
7 workshop that brings in other governmental  
8 agencies? Can you bring in leaders of state  
9 prison associations to have -- I mean, I know  
10 there's -- I think there's a panel later today  
11 that maybe will touch on a little bit of this, but  
12 I think there's a lot that you can do sort of from  
13 a bully pulpit.

14           You know, it think Commissioner Clyburn  
15 is a great leader, and it might be something she  
16 or others would want to consider as just bringing  
17 folks together, letting them know who to call,  
18 letting them know what a best practice is.

19           So those don't require any authority  
20 whatsoever, it just requires leadership and  
21 information, and it's easy to undervalue when  
22 you're inside a federal agency, the amount of

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1 knowledge that you have about how things work, and  
2 how easily you could probably, you know, open a  
3 couple of doors at least to know who is the right  
4 person to have in the room.

5           So you know, when somebody is an  
6 advocate on the outside that can be extremely  
7 opaque. So I think there's a huge value in just  
8 getting the information out there. Then obviously  
9 pushing as you can on your authority to remedy  
10 this grave injustice, but there's a lot that can  
11 be done just with a little person power.

12           MR. GUDE: Thank you. I think obviously  
13 this workshop is part of our bully pulpit of  
14 getting information out and trying to get broader  
15 knowledge.

16           But it also helps us to understand what  
17 these specific issues are as we delve into the  
18 area further, the specifics don't always trickle  
19 up to the Commission, so again, we thank you all  
20 for coming in and sharing that with us.

21           Let me ask Paul a question. You had  
22 mentioned in your opening statement that dropped

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1 calls continue to be a problem, but the ICS  
2 companies in many cases have told us that either  
3 that's not a problem, or not a significant problem  
4 going forward.

5           Maybe you can share your thoughts a  
6 little bit more on what you're hearing on the  
7 dropped call issue. It clearly is a problem when  
8 it comes to the rate structure. But how is that  
9 actually playing out in the real world?

10           MR. WRIGHT: The reports that we get  
11 from prisoners around the country and their family  
12 members, and people who are intact with prisoners,  
13 and our organization also receives calls from  
14 prisoners as well from around the country, is low  
15 phone call quality continues to be an issue, and  
16 also dropped calls.

17           Ostensibly, the dropped calls are often  
18 a result of so-called three-way call detection  
19 systems. My understanding is that what a three-way  
20 call detection system does is it detects other  
21 noises. Often that other noise can be someone  
22 coughing, clearing their throat, or just

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1 background noise, which is very common in  
2 detention facilities, and this leads to the calls  
3 being dropped.

4           Then when the call is dropped the  
5 prisoner has to call back again, which leads to  
6 another hook up fee, and a larger charge, and I  
7 think this is something that it artificially  
8 inflates the costs of the calls above and beyond  
9 the already high rates.

10           We're consistently getting reports  
11 nationally about continued dropped calls.

12           MR. GUDE: Has that changed at all in  
13 your sense since the Commission's order went into  
14 effect?

15           MR. WRIGHT: No, we haven't seen any  
16 change in that. This has been a constant thing  
17 for at least the last ten years or so, and I think  
18 it started with the implementation of the so-  
19 called three-way call detection systems.

20           MS. LEWIS: Can I just add to that? I  
21 would like to see that folks calling through  
22 TTY's, the few TTY's that are actually functional

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1 in our prisons actually have a worse situation  
2 with respect to dropped calls. One, because calls  
3 take exponentially longer when you're typing and  
4 English is not your first language.

5 Two, because these limits that exist  
6 anyway, there's a 15 minute cap on most calls,  
7 really just for the deaf person who has to connect  
8 to relay, that takes eight minutes in and of  
9 itself, so the deaf person is left with six  
10 minutes to get -- talk to their attorney, or their  
11 loved one, and then they have to do the call all  
12 over again, which clearly skyrockets very quickly.

13 Deaf people are still being charged a  
14 surcharge to use relay in prisons across the  
15 nation. That hasn't changed since the last time I  
16 was here either.

17 Yes, dropped calls, I experience dropped  
18 calls with prisoners who call me all the time, but  
19 it's often because the -- well, I won't get into  
20 all the technicalities of how a TTY works, but you  
21 all understand how TTY's work, and it's through  
22 sound. It's like Morse code, so if there's any

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1 sound in the prison, and we know that there's tons  
2 of sound in a prison, the call is going to be  
3 perceived as there's some third-party, or what  
4 have you.

5 So it's certainly an issue that affects  
6 us, and I think we actually pay lot more for it.

7 MR. WEISE: Yeah, I'd like to add to  
8 Peter's comment if I could, as well as perhaps  
9 implicate myself in the process.

10 You know, when I was in prison I had the  
11 fortunate ability to have my father, who was  
12 middle class -- you know, I quickly looked at the  
13 phone rates and realized I was going to pay about  
14 \$15 for 15 minutes, but a local call was a mere  
15 \$2.

16 So I quickly ascertained, well, what I  
17 need to do is get a local number. So I had my  
18 father purchase a cell phone, get a local number,  
19 I'd call that cell phone with the local number,  
20 then I would have him forward the call to whoever  
21 else I wanted to talk to. They would forward the  
22 call, and then I could talk to anybody I wanted to

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1 with -- for a mere \$2 for 15 minutes.

2           For Peter's -- you know, with the three-  
3 way calling system, that's what it's there to  
4 detect, so that, you know, number one, for a  
5 number of reasons. First, they want to be able to  
6 monitor who you're calling and a three-way system  
7 lets you call whoever you want, and secondly it's  
8 the more local numbers you have the less money you  
9 get on the backend.

10           So I just bring that up because I think  
11 there are ways that people will figure out how to  
12 make cheaper phone calls, and I think one of the  
13 things you see in a prison system today is this  
14 growing concern of cell phones being snuck into  
15 prisons, and there's obviously security concerns  
16 with cell phones in prisons, but I also think it's  
17 a result of this exorbitant high cost that we have  
18 of people wanting to communicate with their loved  
19 ones.

20           You also see kind of this raising up of  
21 corporations who will, in essence, you pay a  
22 monthly fee, \$8 or whatever it is, and they will

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1 give you a local number that then somebody can put  
2 on their call list, and then you can make a local  
3 call, as opposed to a long distance call.

4           So I think there are ways that people  
5 are looking -- I like the balloon analogy that he  
6 said, because I mean, people are going to find a  
7 way. There's a little bit of a free market in  
8 there somewhere, and people are going to try to  
9 find how to make the cheapest phone call.

10           I think there are -- what I've really  
11 learned through this whole process in advocating  
12 for this, is there are many ways to attack the  
13 dragon. I think perhaps coming at even  
14 departments of corrections and say perhaps you  
15 offer the ability for families to secure a local  
16 number. Perhaps that's one way that you can do  
17 that.

18           So I just really -- yeah, the hang ups,  
19 and all of that, is a continual problem in our  
20 prisons.

21           MS. LIEN: Thank you, Jesse. Darrell,  
22 how have you dealt with this in Alabama?

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1 MR. BAKER: Just last week I was in the  
2 Elmore County, Alabama, detention facility as we  
3 spoke with inmates in ever cell block, and two a  
4 man they said their number one problem is dropped  
5 calls.

6 It's dropped calls due to suspected  
7 three- way call violations. This is why that's  
8 happening; the software that screens for suspected  
9 three-way calls is searching for DTMF signals,  
10 which is Dual Tone Multi Frequency, it's when you  
11 key in a number on your touchpad on your telephone  
12 you'll hear the various tones that are sending  
13 that call to a third- party, or forwarding that  
14 call.

15 So you can adjust the sensitivity of the  
16 software to, obviously block more calls, or knock  
17 off more calls, and that's what's happening.  
18 You're getting a lot of background noise and those  
19 calls are being bumped off.

20 If you have rates that have a set up and  
21 a per minute charges on top of it, what happens is  
22 those inmates have to go through that calling

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1 process again, and they get charged again.

2           Now, with the postalized rates that the  
3 FCC has recommended, and Alabama has recommended,  
4 that's going to be less of a problem. There won't  
5 be a need to refund, and the inmates if they are  
6 knocked off can recall again and the charge will  
7 not be a problem, except the single payment  
8 services.

9           You've got to continue to monitor single  
10 payment services because they're going through  
11 that screening process too for three-way calling,  
12 and if they're bumped off at some of those rates,  
13 \$14.99 and \$9.99 for those calls, they'll have to  
14 go back through and be charged those rates all  
15 over again if they're bumped for three-way  
16 calling. So we've got to look at that process.

17           MS. LEANZA: In considering that issue,  
18 I wonder if the Commission couldn't -- I don't  
19 know, for example, when the Commission did it's  
20 last order there, and obviously that's still --  
21 that's stayed at the moment, there's sort of a  
22 presumption of when a rate is appropriate or not

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1 appropriate, and then a process to prove whether  
2 it is appropriate or not, I'm wondering if as the  
3 Commission gathers more data on these incidents,  
4 whether the type of call pricing, which  
5 incentivizes problems like dropped calls, because  
6 that increases the volume and increases the  
7 revenue, could possibly be a flag, or something  
8 that requires further justification.

9           Whereas if a prison or a jail had a rate  
10 structure that was more likely to incentivize  
11 appropriate use of the technology, and not abuse  
12 of the technology to increase rates, that might be  
13 a way to incorporate it into the FCC's framework  
14 that it's used in that past that would -- you  
15 know, it would help address this issue without  
16 being so -- you know, without doing something  
17 that's very specific, but that would at least be a  
18 step in the right direction.

19           MS. LIEN: Karina, we haven't heard from  
20 you in a while. I have two different questions  
21 for you. One is, could you please discuss the  
22 petition filed at the New Jersey of Public

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1 Utilities and what prompted that petition, which I  
2 know you touched on briefly, but if you could  
3 expand a little bit?

4           We also have question from outside,  
5 which said you mentioned several examples of  
6 counties accessing high commission on local prison  
7 calls; how much do high commissions contribute to  
8 the overall problem of high ICS rates?

9           MS. WILKINSON: Well, we've seen -- I'll  
10 answer the second one first -- we've seen the  
11 state reduce their rate from a flat rate of \$.33  
12 to \$.17, while eliminating the commission. So the  
13 rates can still be above a fair and just rate,  
14 even without a commission.

15           I'm not sure what the state's motivation  
16 is for that, so I think we still have advocacy  
17 that we can do around bringing those rates down  
18 further. If our petitioner were -- the regulation  
19 that we're asking for from the Board of Public  
20 Utilities were to bring the rates down, we see just  
21 across the river in New York 4.8 cents per minute.  
22 So what is New Jersey's interest in keeping the

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1 rates so high?

2           In terms of what motivated us, so in  
3 working with immigrant detainees, it's a constant  
4 complaint of the high rates. There have been  
5 petitions when they close down a facility, ICE  
6 closed down a facility in New York City, they  
7 moved people into the Hudson County Jail, and the  
8 rates in New York were 10 cents a minute, and they  
9 came over to Hudson County, 88 detainees wrote a  
10 petition, which they submitted to the New York  
11 Times, the American Bar Association, and number --  
12 one of the top complaints was the phone rates.

13           They were able to make some kind of  
14 change in that, but we know of people who are  
15 detained and their children have to choose between  
16 calling their mother and eating. We know that  
17 people come out of immigration detention with  
18 thousand dollar phone bills.

19           I just wanted to commend the folks in  
20 Alabama because even before the FCC order we had  
21 one immigrant detainee who was in detention for  
22 three and a half years, in about four different

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1 county jails, in New Jersey. Not the county where  
2 he was originally from. So and part of the time  
3 he was also detained in Alabama.

4 So when he didn't have a court  
5 appearance ICE moved him down to Alabama, it was  
6 cheaper for him to call his sister from Alabama  
7 than from one county to another in New Jersey.

8 So these are the kinds of things that  
9 motivated us to -- also, like I said, to file a  
10 petition with the Board of Public Utilities. Also  
11 the fact that we didn't think the legislative  
12 route was going to achieve what they were able to  
13 achieve in both other states, such as California,  
14 and New York.

15 MS. LIEN: So am I understanding  
16 correctly that in New Jersey there is no  
17 prohibition on commissions; this is being decided  
18 on a county by county basis, is that correct?

19 MS. WILKINSON: Yeah, there's no  
20 prohibition.

21 MR. GUDE: I had a question for Paul.

22 I know that HRDC keeps a great database

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1 of ICS contracts that are out there. Have you all  
2 seen since the Commission's order went into effect  
3 any changes in what you're seeing, in terms of the  
4 RFP's that you may have access to, or the  
5 contracts that come out, getting back to Darrell's  
6 comment about the balloon. Has there been a  
7 noticeable balloon effect in contracts trying to  
8 find cost, or abilities to make up revenue losses  
9 in one place, versus another?

10 Or do you see really the, at least on  
11 the interstate side, rates coming down and having  
12 a real benefit, and is that benefit also from the  
13 bully pulpit perspective impacting intrastate  
14 rates in any positive way?

15 MR. WRIGHT: So far I think it's one of  
16 those things that it's too soon to tell. We  
17 maintain the website at  
18 [www.PrisonPhoneJustice.org](http://www.PrisonPhoneJustice.org), and we have the  
19 contracts for all 50 states, the Bureau of  
20 Prisons, and a number of county jails around the  
21 country.

22 Part of the problem with this is there's

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1 a couple of problems in getting a quick answer to  
2 your question, and number one is the lack of  
3 transparency involved in getting this data. We  
4 have at least one full time person at HRDC that  
5 they're only job is to track down these contracts  
6 and get the data on them. To say that's -- it's  
7 quite the task is an understatement.

8           Some departments of correction are very  
9 forthcoming with them, but unfortunately those are  
10 the minority.

11           The other problem that we've got also is  
12 that these contracts are multi-year contracts.  
13 It's very common to see these contracts that are  
14 five, six, seven eight years for the provision of  
15 services with one-year extension options, so you  
16 don't see a lot of renegotiation.

17           I think this also goes to -- is more of  
18 a comment too about the lack of competition and  
19 market consolidation within the ICS market, which  
20 I think for practical purposes isn't really a  
21 market. So we haven't really seen any type of  
22 changes in the RFP's, and because these contracts

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1 are such long-term contracts, we're probably not  
2 going to see any changes in the RFP's for some  
3 time to come.

4 We're still gathering the data and we'll  
5 be reporting on that after we gather it, and we're  
6 probably looking at probably another six to eight  
7 months to be able to do that.

8 One of the ironic trends that we are  
9 seeing, and that we're hearing from a lot of  
10 prisoners and their families, is that because of  
11 the FCC action out of state calls are now cheaper  
12 than in state and local calls.

13 So what we're seeing is people are  
14 setting up -- family members are setting up  
15 numbers out of state so the prisons can call the  
16 out of state number, which then gets forwarded to  
17 the family member, and it's cheaper than the in-  
18 state calls, which I think it's kind of a sad  
19 commentary, but I think it also reflects the need  
20 for uniformly low rates, and affordable and  
21 reasonable rates across the board so that everyone  
22 can take advantage of the FCC's reform on this

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1 effort.

2 MS. LIEN: Darrell, you mentioned in  
3 your opening comments the potential need, or the  
4 need for a transition period in Alabama. Can you  
5 expand on that a little bit please, as far as  
6 contract changes?

7 MR. BAKER: Yeah. Whether you agree or  
8 disagree with site commissions, they are in fact  
9 there. I think in some cases there are local  
10 budgets that depend on them. Local confinement  
11 facility budgets.

12 Policy makers have to have an  
13 opportunity to adjust going forward if you're  
14 going to do something with site commissions. So  
15 it's nice to say we need to eliminate site  
16 commissions, but you've got to consider those  
17 policy makers, because like I say, you can create  
18 a funding crisis at local jails, county jails,  
19 city jails, if you don't accommodate for the  
20 change, transition the change.

21 MR. GUDE: Let me follow up on that in  
22 two ways. One, how big a percent of revenue for a

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1 jail or prison is the commission they receive? In  
2 other words, is it a tiny amount that really a  
3 transition is not really necessary, or is it a  
4 very large amount that a transition is almost  
5 critical, one.

6           Second, from a transition period, what's  
7 an appropriate transition period? We have heard  
8 all kinds of commentary from let the contract run  
9 though, and don't tinker with the contract itself,  
10 and in some cases that contract may go out many,  
11 many years with option years, and all of that,  
12 versus no transition period at all.

13           So from your perspective being closer to  
14 the localities, what's your thoughts on that?

15           MR. BAKER: As far as the commissions  
16 go, it depends on the facility, and it depends on  
17 the provider.

18           I will say that in Alabama we have  
19 commissions as high as 84 percent.

20           MR. GUDE: But the percentage of  
21 commission is very high, but as a percentage of  
22 the budget for the facility itself. Obviously, if

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1 it's less than a percent, one would believe that  
2 budget makers can accommodate for that rather  
3 quickly. If it's a large percentage it may be  
4 more problematic.

5 MR. BAKER: To be honest in your  
6 question, I haven't gone through and analyzed  
7 those budgets. I presume that it's a lot higher  
8 than one percent.

9 What was the second part of your  
10 question?

11 MR. GUDE: On the transition. The  
12 length of the transition that you find necessary,  
13 or that you all looked at and thought through your  
14 process, this is required, or useful.

15 MR. BAKER: It depends on when you  
16 implement the change. I mean if we're looking at,  
17 in Alabama, starting on October 1, obviously the  
18 FY-15 budget has already been approved. So going  
19 forward we looked at a transition transitioning  
20 down over two years and implementing the final  
21 rates in three years.

22 MS. LIEN: Getting back to Karina, I

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1 have a follow up question, and this is for Karina  
2 and for everyone; several of you have mentioned  
3 this.

4 Your advocacy principally focused on  
5 immigrant detainees, which means that some portion  
6 of your calls must be international. How much of  
7 an issue are international ICS rates?

8 MS. WILKINSON: It's been hard to get  
9 the data on the international rates, so as Paul  
10 was talking about, what's easily available is the  
11 domestic rates. For some of the facilities we  
12 know that, for example, Bergen County I believe is  
13 around \$20 for 15 minutes international. It's  
14 really -- it's an issue.

15 The immigrant detainees, if you -- if  
16 you're facing deportation sometimes you need in  
17 your -- to prepare your court case you need to get  
18 documents from another country. If you have a  
19 final order against you, you may need to prepare  
20 to go back to a country where you haven't been in  
21 a while.

22 So these calls are critical and I don't

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1 have good data on all 21 counties, or even the  
2 state doesn't make available on their website what  
3 their international rates are.

4 MS. LIEN: Is access to international  
5 calls an issue, or is the -- is it more of an  
6 issue of high rates?

7 MS. WILKINSON: I'm not aware of those  
8 issues, so I'm sorry.

9 MS. LEWIS: Can I just say something? I  
10 would just like to add; you asked what would be  
11 helpful in terms of what the Commission could do.

12 I would like to see in the next order  
13 also a mandate that all ICS providers have a  
14 disability access plan in place within their,  
15 whatever it is that they submit to you all. I  
16 don't think that's asking too much, particularly  
17 because they are making so much money and it's  
18 really easy to do.

19 MR. GUDE: We have a question from the  
20 audience for Darrell. The BLM Commission  
21 regularly visits or inspects telephone systems and  
22 jails, do you see that the jails have a cost to

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1 offer inmate phone services that can be offset by  
2 minimal commissions, transporting inmates,  
3 listening to calls, disciplinary actions from call  
4 abuse, etcetera.

5           In other words, what are the costs for  
6 facilities to make ICS available inside those  
7 facilities, that properly, one could argue, is  
8 recovered or should be recovered through ICS  
9 rates?

10           MR. BAKER: Well, that's something that  
11 we're looking at, and Alabama tends to work with  
12 the sheriff's and local confinement facility  
13 administrators in our state to do a time and  
14 motion study to determine what is involved, what  
15 is their involvement in Inmate Calling Service?

16           I know that one of the requirements is  
17 they have to monitor the calls, or a portion of  
18 the calls. They're also involved in actually  
19 submitting trouble tickets on equipment, they're  
20 involved in some billing disputes the inmates may  
21 have with the provider. So there is a level of  
22 involvement. We don't know how much that is right

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1 now, so that's something we're going to determine  
2 going forward.

3 MR. GUDE: Your sense from, as you said,  
4 you've made trips to facilities throughout the  
5 state, how does that vary? Not just that, but the  
6 whole issue of jails versus prisons, small versus  
7 large, you noted that there are differences. Can  
8 you talk a little bit more about the cost  
9 differences from that perspective, the -- how  
10 tiering from a cost recovery perspective, or a  
11 rate perspective, may or may not be useful or  
12 necessary?

13 We have heard arguments on all sides of  
14 that; that tiering is useful, the breakdown should  
15 be on call volume, or on some other basis. But  
16 your thoughts and identification would be useful  
17 on that.

18 MR. BAKER: We don't know, that's why  
19 we're looking at it going forward. We're going to  
20 look at the cost studies on a tiered basis for  
21 jails. But you've got to know that there's going  
22 to be smaller volumes at smaller jails, and so you

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1 have a lot of the same fixed cost for those jails  
2 as you would for the medium size jails with a  
3 lower volume.

4           So you know there's going to be higher  
5 cost. So we're going to try to look at that going  
6 forward.

7           I will mention something that Bill Pope  
8 included in comments to the FCC about universal  
9 service fund; he said that the Commission ought to  
10 consider eliminated universal service fund charges  
11 to inmates.

12           What the Commission could also consider  
13 is taking that universal service fund that comes  
14 from inmate calling and putting in a special pot  
15 and compensating the higher cost jails, to keep  
16 the rates low in those jails.

17           MS. LEANZA: I just wanted to mention  
18 really quickly, the United Church of Christ is the  
19 long standing, along with our civil rights allies,  
20 on the universal service fund, and particular the  
21 lifeline fund. You know, clearly when people are  
22 low income and they get a benefit for that fund, I

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1 think that's important.

2 I just would be a little cautious about  
3 what is this revenue going to be used for? Is it  
4 used to compensate the jail, or is it used to  
5 benefit -- I mean, I wouldn't want the subsidy  
6 from an inappropriately high rate to then drain  
7 money out of the universal service fund, which is  
8 used to help low income consumers have a basic  
9 lifeline connection, so that a jail could maintain  
10 it's commission level and support it's facility on  
11 non-telecom related issues. I think that would be  
12 -- you know, really cautious.

13 I did also want to highlight in regard  
14 to this conversation that I wonder, and I don't  
15 have the data, but I think it would be a useful  
16 enterprise to incorporate is, you know, what's the  
17 role of new technologies to do some of this  
18 monitoring?

19 I mean, my understanding from being in  
20 this proceeding is that new technologies are  
21 actually making -- you know, driving down costs  
22 for monitoring, and all those things, because

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1 they're often done on an automated basis, they're  
2 often done in a centralized remote location. So  
3 in fact, there may not be that same cost  
4 differential for a small jail as a large facility,  
5 because in fact the provider is centralizing those  
6 services at a single place so their volume is  
7 distributed over the whole facility, which think  
8 is one of the things that the Commission  
9 acknowledged when it -- you know, the last order.  
10 So keeping that on the front burner in terms of  
11 cost.

12 MR. GUDE: One last question -- I think  
13 we're running out of time -- for Paul, you  
14 mentioned that some states do not accept  
15 commissions. Though your databases and analysis,  
16 have you seen a direct correlation between that  
17 and lower ICS rates?

18 MR. WRIGHT: Yes, there's a very direct  
19 correlation. The December issue of 2013 of Prison  
20 Legal News, we did a -- every two years we're  
21 doing a comprehensive survey of the states, and  
22 for example, New York State, which did away with

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1 its commissions a few years ago, the cost of a  
2 call in-state and out of state is 4.8 cents a  
3 minute.

4           The service there is provided by Global  
5 Tel Link, and there's a direct correlation between  
6 the cost of the calls and the amount of the  
7 commission, and I think that one of the things  
8 that we're seeing in this proceeding, is we're  
9 seeing two things. We're seeing a lack of data  
10 and transparency from the telecom industry, and  
11 from the government agencies that contract with  
12 them.

13           The fact that Prison Legal News is a  
14 non-profit is the organization having to gather  
15 these contracts and make them available in one  
16 place, which no one had done before we did, I  
17 think is one of the things that makes it difficult  
18 to have informed policy decisions if you don't  
19 even have the data.

20           The telecom industry is not coming  
21 forward with any information about their actual  
22 costs in providing these services, including the

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1 security measures. We know the security measures  
2 have been touted as one of the reasons for the  
3 high cost of calls, yet again, I think that is  
4 also a red herring because the technology exists  
5 for call monitoring, call recording, all that  
6 other stuff.

7           Whenever we do phone calls to corporate  
8 calling centers and we get the message your call  
9 is being recorded and may be monitored, it's the  
10 same technology that's being used there. So the  
11 costs there are being inflated.

12           But I think that the bigger flaw in --  
13 that we're seeing is the whole structure of the  
14 ICS system where the contracts are being bid on  
15 who's going to get the biggest kickback or  
16 commission, they're not being bid on who's going  
17 to provide the lower service to -- the best  
18 service at the lowest cost to the consumer, which  
19 is ideally how these contracts should be bid.

20           When we look at the states like New  
21 York, New Mexico, California, where the calls are  
22 being -- where the contracts are being bid without

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1 the commissions, we see the costs are  
2 significantly lower. The commissions are what's  
3 driving the cost of the calls.

4 MS. LEANZA: I know the Commission's got  
5 a data collection and data requirement that's  
6 supposed to be submitted, I believe next week, and  
7 I think there's some question about whether  
8 providers feel prepared to submit the data, and I  
9 would just like to go on record and hope that that  
10 deadline is not extended. You know, the data is a  
11 critical component, it's been the excuse for all  
12 this time, it's been a reason why supposedly the  
13 Commission couldn't act for a long, it's  
14 supposedly the basis for why we're having a  
15 lawsuit over the basic -- the rates that were  
16 adopted last year.

17 So then for the same people who are  
18 controlling the data to then say, oh no, we're not  
19 ready since you told us last August, almost a year  
20 ago, that we're supposed to get data, that now we  
21 need more time to submit data, you know, we've  
22 seen this shell game of waiting, and waiting, and

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1 waiting for more information, and I don't think  
2 that there's any appropriateness for there to be a  
3 further delay.

4           They've been on notice for an extremely  
5 long time that this data is required, and I can  
6 only speculate as to why at this time, all of a  
7 sudden, the data is once again not going to be  
8 available. This data needs to be collected, and  
9 needs to be collected on the deadline the FCC set,  
10 and I strongly encourage decision makers here to  
11 press ahead with that, and make sure that that  
12 data is collected, and that companies that do not  
13 comply with FCC's rule about data collections are  
14 appropriately sanction or fined, or whatever is  
15 set forth, because that data needs to be  
16 collected. It's essential; we can't make policy  
17 in a vacuum.

18           MS. LEWIS: Can I just add one thing to  
19 that? I believe that all data that should be  
20 collected should always have questions regarding  
21 disability. Right now the large vacuum that  
22 Paul's referring to with respect to contracts,

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1 same exits with where are people with disabilities  
2 in the system.

3           So we know that there are 50 million  
4 people with disabilities with nation, but we have  
5 no idea how many people with disabilities are in  
6 prison systems, so it would be really important to  
7 collect that information so we can -- by we I mean  
8 the FCC and the Department of Justice -- can  
9 actually take meaningful steps in the right  
10 direction toward making sure that folks, wherever  
11 they may be in these systems, jails and prisons,  
12 are receiving access, but if you don't collect the  
13 data then you won't ever be able to do it.

14           MR. GUDE: All right. Thank you very  
15 much. This brings to an end our first panel.  
16 Obviously, as you can tell, interesting issues, a  
17 lot of issues that are out there.

18           Thank you so much panelists for joining  
19 us. This really helps frame our understanding and  
20 improve our understanding of the issues. Thank  
21 you.

22           (Applause)

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1                   COMMISSIONER CLYBURN: Today I have a  
2 pleasure of both thanking all of you, particularly  
3 Mr. Gude and Ms. Lien, for a very dynamic last  
4 panel but also to introduce one of our nation's  
5 best treasures, Congresswoman Eleanor Holmes  
6 Norton. Now in her twelfth term as a  
7 representative for the District of Columbia, the  
8 Congresswoman is a ranking member of the House  
9 Transportation and Infrastructure Subcommittee on  
10 Highways and Transit. In addition to her service  
11 on the Transportation Committee, she is a member  
12 of the Committee on Oversight and Government  
13 Reform. Before her congressional service, she was  
14 appointed by President Jimmy Carter to chair the  
15 U.S. Equal Employment Opportunity Commission  
16 making her the first woman to do so. When she  
17 came to congress, she was already a national  
18 figure, a noted civil rights leader, a feminist, a  
19 tenured professor and a board member of three  
20 Fortune 500 companies.

21                   If you ask those who know her best what  
22 her major fault is, they will say that she will

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1 never let go of a cause or an effort until the job  
2 is done. The Congresswoman's work for full  
3 congressional voting representation and democracy  
4 for the people of the District of Columbia  
5 continues. Her accomplishment in breaking down  
6 barriers for those in her District are matched by  
7 her success in bringing home unique economic  
8 opportunities for her constituents, and her  
9 support for reforms for those with few or no  
10 advocates like the constituency at the center of  
11 this workshop will never ever wane.

12               So ladies and gentlemen, it is a  
13 pleasure for me to present a support, a friend, an  
14 American treasure, trailblazer, Congresswoman  
15 Eleanor Holmes- Norton of the District of  
16 Columbia.

17               (Applause.)

18               CONGRESSWOMAN HOLMES-NORTON: First, let  
19 me thank Commissioner Clyburn for those really  
20 quite wonderfully gracious remarks. I mean you  
21 would think that I deserve some credit for what  
22 this Commission and what Commissioner Clyburn

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1 herself did when she was Acting Chair of this  
2 Commission. I understand that Chairman Tom  
3 Wheeler is here. There may be other members of  
4 the Commission here. All praise to you and that's  
5 why I've come for what I think is really quite  
6 extraordinary. You have to understand I come from  
7 the "Do Nothing House of Representatives" so when  
8 I'm invited to a session like this where  
9 essentially what we've seen as a Commission that  
10 not only got it done under Commissioner Clyburn  
11 but then some and the then some, of course, has to  
12 do with the follow-up right afterwards and with  
13 this series of workshops today.

14 I want to thank the moderators. I want  
15 to thank the Commissioners. We were so glad to  
16 have it done candidly that we dared not think of  
17 the afterwards. We didn't even contemplate  
18 something as wonderfully professional as this  
19 follow through panel is today. And I want to say  
20 to those of you who have come to Washington, some  
21 of you may not be from this area, that you have  
22 done some very important work; you are doing some

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1 very important work here today. It's one thing to  
2 -- it's a very difficult thing for the Commission  
3 to proffer regulations. For the most part, you  
4 don't hear from such a Commission again. It  
5 usually takes far longer to do the actual  
6 regulations than it took Commissioner Clyburn and  
7 the Commission to do these regulations. It had  
8 taken some time and I want to say just how  
9 appreciative we are of what the Commission did and  
10 what you are doing here today.

11           To make you understand that, you should  
12 think of the FCC and the issues that are on its  
13 plate all the time. They are trendy, technical  
14 issues. I'm not always sure they have a face.  
15 This one had a real face. And when Commission  
16 Clyburn became the Acting Chair, it had a real  
17 leader, a real leader who has made a difference to  
18 hundreds of thousands of people who are  
19 incarcerated and millions of their relatives. I  
20 exaggerate none at all when I say how important  
21 the regulation of these prison phone rates means  
22 both to those directly involved and to the country

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1 because of what it means when they get back home,  
2 and according to all of the data we have, indicate  
3 that the kinds of communication and contact you  
4 are enabling them to have has everything to do  
5 with their reintegration into the society.

6 I happen to chair the working group of  
7 the Congressional Black Caucus who took special  
8 interest in the Commission's work because 60  
9 percent of those who are incarcerated in our  
10 country today are people of color. That's the way  
11 it's always been whether they are immigrants or  
12 poor people, the people who are in the jails and  
13 the prisons, I mean it's the people at the bottom  
14 of the society.

15 Now this is America. Those people come  
16 out and we try to not keep them at the bottom of  
17 the society and we try to see what we should do to  
18 make sure when they do come out, they are really  
19 part of us. It's very hard to figure out.

20 And to tell you the truth, we have not  
21 figured it out except for one approach. We do not  
22 have the key to reducing recidivism but we do know

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1 this. We have documented that of all the  
2 approaches, the many approaches that are used to  
3 reduced recidivism, the one that we can document  
4 has the greatest effect is stimulating  
5 communication from behind those bars with people  
6 in the greater society who will support them and  
7 who love them. It is the one vehicle we know of  
8 that makes a difference to the successful  
9 reintegration into society and makes a difference  
10 into a safe -- and to public safety itself.

11           So we were particularly moved by this  
12 issue because the absence of reasonable phone  
13 rates fell most heavily on those who could least  
14 afford it, those, of course, were in prison but  
15 their families as well. We and the Congressional  
16 Black Caucus want to once again thank the  
17 Commission. We were not sure that the Commission  
18 would regulate both intrastate and interstate and  
19 make calls and when it decided to do so, we were  
20 overjoyed because most prisoners would have been  
21 left out if both kinds of calls were not  
22 regulated. It was clear to us and we cited what

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1 we believed was definitive statutory authorization  
2 for the Commission doing what it did.

3 I can tell you this, that the families  
4 are, to this very day, very grateful. The face  
5 that this issue had on it happened to be a face  
6 from the District of Columbia because the lead  
7 plaintiff was a grandmother and her grandson. And  
8 when the petition was filed before the Commission,  
9 members of congress had a press conference and we  
10 brought that grandmother and her grandson -- her  
11 grandson is now employed here in construction, one  
12 of our biggest construction companies -- and we  
13 let them speak for themselves. This grandmother  
14 had led the fight both in the courts and in the  
15 Commission for 10 years. She had no criticism to  
16 make. She had only gratitude to offer and a plea  
17 to make that somehow the others like her, because  
18 after all, her grandson was there to speak for  
19 himself, could have the opportunity to speak to  
20 their loved ones and to have what the rest of us  
21 take for granted.

22 So I've just come this afternoon to say

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1 we don't take for granted what you're doing here  
2 at all. We are overjoyed by the fact that the  
3 Commission has sponsored these panels and by the  
4 kinds of issues you're looking at, the impact of  
5 the reform, and the need for additional reform.  
6 Do you know how unusual it is to hear a regulatory  
7 agency talk about additional reform? They're so  
8 glad to get out of the regulations, to keep  
9 Congress from pounding on them that they just  
10 don't want to hear anything more. We didn't have  
11 to do a thing after we submitted our petition. We  
12 are so grateful for how rapidly it got done. We  
13 could not be more grateful for this follow  
14 through. We're especially grateful to those of  
15 you who've come to participate in this follow  
16 through and perfect what the Commission has so  
17 wonderfully done. For those involved and the  
18 United States of America, thank you very much.

19 (Applause.)

20 COMMISSIONER CLYBURN: Congresswoman,  
21 thank you so very much. You mentioned during the  
22 introduction that you were not sure why we were --

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1 so I came to say generous -- but appropriate with  
2 our comments. I have a source in Congress and my  
3 source in Congress said to me during one of their  
4 critical meetings that a certain gentlewoman got  
5 up during the meeting and said -- talked about  
6 this effort and talked about our commitment to  
7 getting things done and asked and charged and  
8 challenged all of them to help, this then Acting  
9 Chair and this Commissioner in his effort, so for  
10 that and so much more, I am grateful. We thank  
11 you. The American people thank you and that is  
12 why I was so appropriate in my complements and  
13 comments about you.

14 So Roger, I know it's time for the next  
15 panel and we are maybe one-and-a-half minutes late  
16 and that's great in terms of FCC time. So thank  
17 you so very much. I appreciate it.

18 (Applause.)

19 MEMBER GOLDBLATT: Will panel two please  
20 come up. It was well worth the minute-and-a-half  
21 by the way.

22 MODERATOR ZESIGER: Good morning. I'd

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1 like to welcome panel two to the table this  
2 morning to begin a second set of issues focusing  
3 primarily on ancillary charges their prevalence,  
4 their costs, the rates being charged for them, the  
5 occurrence of new charges, recommendations for  
6 reform which have been made generally in the  
7 docket, and to generally get the opinions, the  
8 reactions of our panelists on ancillary charges.  
9 As we heard earlier, they have become a more  
10 significant part of the charges that ICS consumers  
11 pay for their service overall; hence the focus of  
12 this panel.

13 I'd like to begin by introducing our  
14 panelists. Mr. Darrell Baker already introduced  
15 from the Alabama PCS; Ms. Aleks Kajstura, the  
16 Legal Director from the Prison Policy Initiative,  
17 a group that's been very active on this issue in  
18 particular; Lee Petro, counsel from Drinker,  
19 Biddle and Reath and lead counsel for the Wright  
20 petitioners, been involved in this issue for a  
21 long period of time as many of you have, most of  
22 you have; Mr. William Pope, President of Network

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1 Communications International Corporation or NCIC,  
2 an ICS provider based on Longview, Texas; and  
3 finally, Mr. Vincent Townsend, President of Pay-  
4 Tel Communications, an ICS provider based in North  
5 Carolina.

6 Thank you, and Mr. Baker, if you would  
7 begin.

8 MR. BAKER: I thank the FCC for the  
9 opportunity to participate in this workshop and  
10 for consideration of my comments. The three  
11 drivers of ICS revenues are ICS rates, ancillary  
12 chargers, otherwise known as fees, and charges for  
13 single-payment services. A fourth is video  
14 visitation and it's growing rapidly. Site  
15 commissions do not apply to customer fees and very  
16 minimal commissions are offered on single-payment  
17 services.

18 Before proceeding, I'd like to make this  
19 point. Some ICS providers charge reasonable fees  
20 and if they offer single-payment services, the  
21 charges are very reasonable by comparison. Their  
22 attractiveness is excellent customer service and

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1 square dealing with confinement facilities.  
2 Unfortunately, being an honest broker is simply  
3 not enough. They compete for exclusive  
4 confinement facility contracts with a few ICS  
5 providers who offer high site commissions using  
6 excessive fees and exorbitant charges for single-  
7 payment services to compensate for reduced calling  
8 income need to pay commissions and win the  
9 contract. These providers win contracts because  
10 the end-users of the service aren't the ones  
11 making the choice for their service provider.

12 Alabama capped ICS rates in 2009.  
13 Therefore, all providers are subject to the same  
14 maximum rates. Since then, site commissions  
15 skyrocketed to as high as 84 percent in our state.  
16 Common sense alone will tell you that providers  
17 cannot survive on 16 percent of the ICS revenue.  
18 Those that awarded the contracts should have  
19 figured that out as well.

20 So how do these providers do it? The  
21 answer is excessive end-user fees supported by  
22 exorbitant for single-payment services. So how do

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1 you reform end- user fees? Alabama's approach is  
2 first, establish a basic level of ICS service and  
3 what is included in that basic service at no  
4 additional charge to the customer. If service is  
5 not defined, then anything may be considered  
6 ancillary by the provider.

7           We define basic service as prepaid,  
8 collect and inmate debit service wherein the  
9 customer is entitled to establish an account with  
10 a provider and have it maintained at no charge and  
11 to have a means of funding that account at no  
12 charge. Other telecommunication carriers in  
13 Alabama are required to provide their customers a  
14 monthly statement at no charge. ICS providers,  
15 therefore, have the same requirement for all the  
16 inmate debit service. Additionally, those  
17 customers are entitled to a refund of their  
18 prepaid charges at no cost to them.

19           Beyond that basic level, the Commission  
20 will consider fees. So what is ancillary beyond  
21 that basic level of service? Payments by a credit  
22 card or a third-party payment transfer service,

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1 bill processing for sync collect charges wherein  
2 the provider must pay to include their charges on  
3 another carrier's billing statement, charges for  
4 transferring funds from canteen trust funds to  
5 inmate calling accounts, and a small charge when  
6 the customer chooses an optional paper bill over  
7 the default electronic account statement.

8                   What fees are not authorized?

9                   Essentially, the remaining plethora of provider  
10 fees. Alabama has never authorized an in trust  
11 state regulatory recovery fee. When providers  
12 seek their certificate of convenience and  
13 necessity authorizing them to provide service in  
14 Alabama, they are aware that the service is  
15 regulated requiring oversight and reporting. They  
16 know about the requirement for paying the  
17 Commission inspection and supervision fees as well  
18 as the requirement for collecting and remitting  
19 applicable taxes and government fees. Why then do  
20 some regulators feel obligated to compensate  
21 providers for things they've already agreed to do?

22                   With all due respect to our host,

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1 Alabama objects to the application of a federal  
2 regulatory recovery fee and any U.S. self-  
3 collection admin fee. Can anyone point me to an  
4 FCC order that specifies what those fees are?  
5 Providers are charging whatever they want. To  
6 their credit, some of the ICS providers do not  
7 apply these fees. The USF fee is calculated  
8 quarterly with precision that would make a  
9 watchmaker green with envy. The telephone relay  
10 system is accurate to fractions of a cent but  
11 providers are allowed to charge whatever they  
12 please under the category of a regulatory recover  
13 fee.

14           One provider is assessing a 99 cent  
15 charge to the first and fifth interstate call.  
16 Another charges 3.49 if one just interstate call  
17 is made by an inmate. Assume an inmate makes one  
18 10-minute interstate call at the FCC's new interim  
19 rates. The charge is \$2.10 but one provider  
20 currently tacks on \$3.49 for regulatory recovery,  
21 so that \$2.10 call just cost the customer \$5.59.  
22 Additionally, that customer is assessed

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1 disproportionately a higher proportion of  
2 regulatory costs than a caller who makes more  
3 interstate calls.

4           Alabama's position is that we will allow  
5 this fee if the provider can point to an FCC rule  
6 or order that specifically authorizes it and the  
7 amount thereof.

8           Third-party payment transfer fees. Some  
9 providers will attempt to persuade you that they  
10 have no control over what their customers are  
11 charged by third-party payment transfer services.  
12 That claim is blatantly false. They exercise  
13 tremendous control over the charge. Why do one  
14 provider's customers pay \$5.00 and another  
15 provider's customer's pay 11.95 to the same third-  
16 party transfer service? We suspect revenue  
17 sharing arrangements exist between some providers  
18 and third party payment transfer services.  
19 Essentially, the customer is being charged twice  
20 for the privilege of sending their money to the  
21 provider. ICS providers have no incentive to seek  
22 lower payment transfer fees for their customers.

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1 In fact, they are free to sock it to them if they  
2 choose and some do.

3 I'll close with this recommendation to  
4 the FCC. The myriad of end-user fees are  
5 confusing to customers. It does little good to  
6 boast about setting low rates. What comes out of  
7 the customer's pocket is what matters and fees are  
8 emptying those pockets. You're in the process of  
9 studying costs for semi- permanent interstate ICS  
10 rates. We're following the same path in Alabama.  
11 As much as possible, incorporate all known  
12 measurable and justifiable provider costs and the  
13 ICS rates excluding the truly elective ones for  
14 the customer that I've mentioned previously.  
15 Include reasonable costs for provider compliance  
16 with federal regulations. Together let's  
17 eliminate all ancillary charges except those that  
18 make sense. Make the rates a true reflection of  
19 cost for providing the service rather than an  
20 illusion.

21 When you have done so and addressed  
22 single- payment services as well, all ICS

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1 providers will be on a more level playing field in  
2 terms of competing with one another. They will no  
3 longer be able to underwrite promises of higher  
4 site commission payments with the old standbys.

5 Thank you.

6 MS. KAJSTURA: Thank you again for  
7 having us here on this panel and what's become now  
8 an annual tradition. I'm Aleks Kajstura, the  
9 Legal Director at the Prison Policy Initiative  
10 where we've released two reports on the cost of  
11 the calls to and from prison. And one of the  
12 reports that deals specifically on fees was over  
13 1200 pages long, so I'm going to attempt to kind  
14 of consolidate it now here for you.

15 As most of you know, the high cost of  
16 phone calls can be traced back to the practice of  
17 paying commissions to the jails and prison phone  
18 systems and ancillary fees are no exception.  
19 Today's high ancillary fees are a direct outgrowth  
20 of the commission system. Because correctional  
21 facilities are taking so much of the revenue  
22 generated through phone rates, companies have

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1 developed fees as a way to shield that profit from  
2 the commission system, and they've become a robust  
3 and hidden revenue stream. As a result, we found  
4 that ancillary charges now make up about 38  
5 percent of the money spent on phone calls. So  
6 regulating ancillary fees is a significant and  
7 important part of regulating the cost of the phone  
8 services in correctional facilities.

9           To the point where -- there can really  
10 be no meaningful regulation of phone costs without  
11 controlling for fees because, you know, the ICS  
12 companies have proven to be adept at charging fees  
13 in order to bypass any burdens placed on the rates  
14 part of the equation. We're already seen one  
15 example of this within a month of the FCC's last  
16 order, Securus. You know, it was their rates were  
17 now capped. They changed their fees instead.

18           And it's important to note, like Darrell  
19 said, that these fees are charged at every step of  
20 the process. They're charged for taking the  
21 customer's money, for then holding the customer's  
22 money, and then if the customer wants their money

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1 back because their loved one is out of the  
2 facility, they charge money there, too.

3           So to kind of give you an idea of the  
4 scope of the problem, Securus, for example, has  
5 account funding fees that amount to 32 to 40  
6 percent of the money deposited to the account, so  
7 that's 40 percent of the money gone before you  
8 ever make a phone call. And that's for a website  
9 or phone -- like automated phone deposits.  
10 There's nothing fancy. And if somebody wants to  
11 deposit money through a third-party such as  
12 MoneyGram, Western Union, the companies charge  
13 fees there as well. Like Darrell said, there is a  
14 wide variety that has pretty strong implications  
15 of kickbacks going forth when -- in the cases that  
16 the companies are not directly charging an  
17 additional fee on top of the deposit. And these  
18 fees I mentioned are on the higher end but they're  
19 not unusual and there's huge variation between  
20 providers. NCIC and Pay-Tel here, for example,  
21 are charging things on the lower end but the  
22 larger companies like Securus and GTL which should

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1 really have economies of scale and be able to get  
2 these fees down, they have -- they're charging  
3 fees two to three times as much. And that's just  
4 to get your money into the account.

5           Then while the companies are holding  
6 your money, they're going to charge monthly  
7 billing fees, other charges on a monthly basis.  
8 And then if the account doesn't get used enough,  
9 it goes into inactive status. At that point, the  
10 company is going to start charging fees as well.  
11 But then if you want to avoid that and get your  
12 money back, there are fees for taking your money  
13 out.

14           So in conclusion, fees -- if fees are  
15 unregulated, it will undermine any regulation of  
16 phone rates that the FCC attempts. You can't have  
17 a meaningful cap on the cost of a call when  
18 companies can just switch their charges to fees.  
19 So -- because what can seem like reasonable phone  
20 rates when you look at the cost per minute, it  
21 doesn't necessarily take into account the fees  
22 that are charged to get you to that first minute

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1 and then what happens after you hang up. And the  
2 FCC kind of attempted to close off some of the  
3 pricing structure loopholes that we've already  
4 seen the in past for the increased cost for the  
5 first minute and so on, and so it calculates the  
6 fees based on a 15-minute phone call. But what  
7 happens before that first minute and after the  
8 15th matters just as much. Thank you.

9 MR. PETRO: Well, I'm fortunate to  
10 follow Aleks and Mr. Baker because then I don't  
11 have to get into all the details. My name is Lee  
12 Petro. I'm the pro bono counsel for Martha  
13 Wright. I'm of counsel at Drinker Biddle & Reath  
14 and when I took over the case about five years  
15 ago, the attorney that had been working on it  
16 said, "You know, you just have to punch it across  
17 the goal line." What he didn't say was that I had  
18 to go 99 yards to get to the goal line. And so I  
19 am fortunate and very thankful for the FCC and for  
20 all of their staff and all the hard work that they  
21 have done, and I refer to her as the "Action  
22 Chairwoman Clyburn" because in her brief period,

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1 she got more done than many chairmen have done in  
2 the past. So I am very thankful for her -- and  
3 I've chased her away but it's okay. So thank you  
4 very much for having me here.

5 I wanted to start with the basic  
6 presumption or basic statement that the  
7 Communications Act specifically addresses  
8 ancillary fees. Under Section 201 of the  
9 Communications Act, the FCC is obligated to deal  
10 with charges, practices, classifications, and  
11 regulations and require that those are just and  
12 reasonable. So it's not a question, and it  
13 shouldn't even be a debate, whether the FCC should  
14 jump into this issue at all. They have the  
15 jurisdiction and they have the obligation to  
16 correct unjust and unreasonable fees and ancillary  
17 fees as well.

18 So, you know, what we have seen over the  
19 years -- and, you know, the Prison Policy  
20 Initiative has done a lot of the work that I cite  
21 to, so thank you -- we have seen every time a  
22 state has taken a look at the ancillary fees and

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1 the underlying per minute and per call rates and  
2 actually have been able to get the data from the  
3 phone companies, those rates have come down and  
4 the ancillary fees have been capped. That  
5 happened in New Mexico. It happened in Louisiana  
6 with a little bit of pushback from, you know, the  
7 non -- from certain board members, and now in  
8 Alabama.

9           And while the FCC has also asked for the  
10 data, they haven't gotten it. You know, we  
11 pointed throughout this proceeding to the initial  
12 laundry list of specific data asks that the FCC  
13 made in the notice of proposed rulemaking, and  
14 none of the phone companies provided that  
15 responsive information. There have been since  
16 then cost studies provided by Pay-Tel that have,  
17 you know, addressed their unique situation. But  
18 generally speaking, the phone companies have  
19 politely declined to provide that information. So  
20 I'm envious that in Alabama, you were actually  
21 able to get the data. It would be useful to see  
22 that and hopefully next week we'll start crunching

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1 the numbers with the data collection on July 17th.

2           From my perspective, I would -- I am  
3 surprised that the sheriffs and the departments of  
4 corrections are not more interested in tracking  
5 down these ancillary fees. As Alex noted, these  
6 are the non-commissionable fees but they equal 40  
7 percent of the total amount of money that's being  
8 paid by the inmates' families to the phone  
9 companies.

10           So in my mind, if the sheriffs and the,  
11 you know, the departments of correction are  
12 interested in making sure that their budgets are  
13 maintained and, you know, properly funded, it  
14 would seem to me that they should read their  
15 contracts a little bit closer and realize that all  
16 of those fees are non-commissionable. And so we  
17 can talk about commissions and we can talk -- and  
18 whether you call them commissions or kickbacks or  
19 whatever you want to call them, the fact is that  
20 there is -- you know, 40 percent of the overall  
21 money being transferred in these relationships are  
22 being left on the table. And so, you know, if

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1 commissions are going to stay in place and if the  
2 fees are going to remain, then they need to be  
3 minimized and capped like what Alabama has done,  
4 what New Mexico has done, what Louisiana has done.

5           And, you know, I'll finish up just by  
6 pointing out that since February, we've seen  
7 efforts to raise the fees and where the companies  
8 have announced that they're not going to be paying  
9 commissions on the interstate communications,  
10 they've also sent letters to their clients  
11 indicating that they're willing to sit down and  
12 figure out other ways to make the prison or the  
13 jail whole. And one can only imagine the process  
14 of making them whole is by increasing other fees  
15 that are not in the contract. So thank you very  
16 much.

17           MR. POPE: First, I'd like to thank the  
18 FCC for the invitation to serve on this panel and  
19 thank Commissioner Clyburn and her staff for  
20 pushing the right petition and the inmate phone  
21 issue to a higher priority.

22           My name is Bill Pope. I'm President of

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1 NCIC Inmate Phone Services. We've been in  
2 business for about 19 years. We're the fourth  
3 largest inmate telephone company servicing about  
4 500 jails across the country. NCIC is an industry  
5 leader in the movement to lowering fees charged to  
6 inmate families which is demonstrative of our A-  
7 plus rating with the Better Business Bureau.  
8 We've also obtained accreditation with the Better  
9 Business Bureau in 2012 showing that we can exceed  
10 expectations of inmates and inmates' families with  
11 responsible billing.

12           Furthermore, NCIC has worked diligently  
13 on these FCC proceedings as well as on ICS  
14 proceedings in the states of Louisiana and  
15 Alabama. NCIC believes that the industry and end-  
16 users benefit from a consistent rate and fee  
17 schedule across the nation including all types of  
18 facilities such as holding facilities, immigration  
19 detention facilities, jails and prisons.  
20 Oftentimes, an inmate will be -- can be booked in  
21 a local facility. Then he's transferred to a  
22 county facility and then ultimately end up in a

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1 contract or a state facility and each one may be -  
2 - have a different phone provider in each  
3 facility. So that calls for the consistency and  
4 transparency in the rates and the fees.

5 This consistency also helps eliminate  
6 the stress the family members experience during  
7 the incarceration of their loved one. A  
8 consistent rate and fee structure will also allow  
9 family the comfort of understanding and trusting  
10 the rates of each provider, that each provider  
11 will be charging because they will be the same.

12 Although telecom companies don't  
13 normally welcome a regulation, we do see the need  
14 for the FCC and state regulators to set a standard  
15 rate and fee structure similar to what Darrell at  
16 the Alabama Public Service Commission finalized  
17 earlier this week.

18 How many fees are used in inmate calling  
19 services? There are approximately 15 fees that  
20 the different companies charge. Some of these  
21 fees are very similar to what you might see on  
22 your home phone bill or your cell phone bill,

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1 maybe government-imposed fees, some are cost  
2 recovery fees, some are licensing fees. Just to  
3 name a few, pretty much every company charges an  
4 account establishment fee either using a live  
5 operator or IVR or website to establish the  
6 account. They may have recharger funding fees,  
7 refund fees, bill statement fees, processing fees,  
8 and then you see your universal service fund fees  
9 and taxes. Some companies may charge carrier  
10 recovery fees or technology fees, biometric fees.  
11 I noticed on my Verizon wireless bill, there was  
12 an admin fee, and so a lot of inmate phone  
13 providers charge administrative fees as well.

14           Ideally, based off of the research that  
15 the

16           Alabama Public Service Commission did,  
17 there is generally about six fees that all  
18 providers charge:

19           the account establishment fee or the  
20 initial funding fee either using a live account  
21 representative or funding fees using a web page or  
22 an IVR system; bill statement processing fees for

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1 direct billing or billing on a telephone company  
2 bill; and then finally, there's the fees that  
3 Western Union or MoneyGram will charge to fund an  
4 account.

5           A lot of these fees evolved out of new  
6 billing methods that came to replace traditional  
7 collect calling. Early on, all jail phones were  
8 just traditional collect calls only. A collect  
9 call could be validated, placed and the carrier  
10 would send it out to the local phone company for  
11 billing and then hope to expect maybe 80-85  
12 percent of the revenue back on that phone charge.  
13 As people transitioned to competitive phone  
14 providers and cell phone services, collect billing  
15 began a quick decline and had to be replaced with  
16 new billing methods. Traditional collect calling  
17 billing has also continued to increase in cost as  
18 local phone companies increased the cost of  
19 billing collect call charges on their phone bills  
20 and have discontinued actively attempting to  
21 collect those charges.

22           Prepaid collect calling from a jail was

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1 used to replace traditional collect calling. Fees  
2 were instituted to cover the labor cost and credit  
3 card fees used in setting up prepaid collect  
4 calling accounts. This billing option can either  
5 require a live person to establish the account or  
6 to utilize a completely automated IVR system to  
7 save on labor costs. Many inmate phone providers  
8 use a live account representative to establish an  
9 account on a realtime basis in order to better  
10 handle a confused an upset family member who is  
11 just finding out that their loved one has been  
12 incarcerated.

13           In conclusion, our goal is -- should be  
14 to simplify these fees so they're easy to  
15 understand for the family, simplify the rates for  
16 the inmates. And just to complement the Alabama  
17 Public Service Commission on their work, they did  
18 a thorough investigation of the rates and fees and  
19 required providers to submit the cost data to  
20 justify their fees. I know Darrell Baker and Doug  
21 Dillard undertook most of this project and the  
22 result was a simplification of the fees that

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1 inmate phone providers can charge to family  
2 members in the State of Alabama. We hope that the  
3 FCC and other states investigating inmate phone  
4 rates will closely review the recent Alabama  
5 ruling and consider it as a model for both the  
6 maximum rates and fees that can be charged for  
7 inmate telephone services.

8 MR. TOWNSEND: Great. My name is  
9 Vincent Townsend. I'm with Pay-Tel  
10 Communications. I want to thank the FCC for the  
11 opportunity to be with you today and also  
12 complement all the panelists that have preceded  
13 me. I think they've done a really good job of  
14 hitting this issue.

15 I think it's clear -- I hope it's clear  
16 that unless the FCC addresses the issue of fees,  
17 we're wasting a lot of everybody's time because  
18 without addressing the fees, you're never going to  
19 be able to bring real relief to the families that  
20 are paying these bills.

21 One of the things that they ask us to  
22 prepare on is what fees have done. And the

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1 handouts, I think most of you all have seen these,  
2 but two handouts that I had prepared, one is --  
3 the first is a list of the fees, the highest fees  
4 that are out there of a variety of the different -  
5 - this is not an all- inclusive list but it's a  
6 fairly representative list.

7 I want to emphasize right off the start  
8 that a great number of companies don't charge all  
9 of these fees and a good number of companies such  
10 as Bill's company and my company that don't charge  
11 these high fees. But this is the highest of the  
12 fees that are out there.

13 I put an asterisk by the ones that  
14 increased since the order and I think that's  
15 important to understand because that was the  
16 reaction of what's happened. There's been an  
17 increase in the fees.

18 The second handout is a pie chart that  
19 we prepared that really brings home, I think, the  
20 message as to what's happening to the family's  
21 money. As several folks pointed out, even before  
22 they make a phone call, they've got to make a

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1 payment fee and how much is that. In the diagram  
2 here, that takes about a third of their money.  
3 And then there are recurring fees that happen on a  
4 monthly basis and they can come under a whole  
5 guise of different names and that takes about 10  
6 percent of their money. And then if they have  
7 taken and placed just one single call at 1499,  
8 that takes about 15.

9           And the model here is driven off the  
10 fact that we have an understanding these folks,  
11 for the most part, are limited income, maybe on  
12 fixed income, they have a finite amount of money,  
13 okay. So what happens to that money is critical  
14 as it relates to connection with their family  
15 members.

16           And this example shows \$100.00, somebody  
17 has \$100.00 in a month to give for phone calls.  
18 They make four payments and this is what happens,  
19 what's left. Out of the \$100.00, there is only  
20 \$40.00 left to make phone calls. So when you do  
21 the math on that, it takes the \$3.15 new rate,  
22 great rate on the interstate call, and what does

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1 it turn it into? The real cost to the family on  
2 that call is \$8.33.

3 Now that's -- the FCC did a great job in  
4 getting started but we ain't done yet, okay. And  
5 until you fix the fees, it's like spitting in the  
6 wind. You're, as I said, wasting everybody's  
7 time.

8 The reality here, the family gets 12  
9 phone calls out of that 100 bucks. So that's  
10 what's got to be addressed. It's got to be  
11 addressed. And the other thing that's also  
12 interesting and I appreciated Mr. Petro mentioning  
13 it, I couldn't do this to my clients. I don't  
14 have enough guts because they all legally wear  
15 guns, okay. But if I was scraping 60 percent of  
16 the money off the top before I paid them  
17 commissions, I couldn't do that. I respect them  
18 too much to do that because it is total deception  
19 to go into somebody and say, "Oh, I'm going to  
20 give you 80 percent." Well, what's the 80 percent  
21 on? It's really on 40 bucks. What's 80 percent  
22 of 40 bucks? Thirty-two percent (sic), okay. But,

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1 you know, one day they'll wake up and when they  
2 do, I'm glad on I'm on that side and not doing  
3 that.

4           So -- but anyway, moving quickly,  
5 ancillary fees have gotten worse. I mentioned the  
6 ones that I've starred on there. They've  
7 increased -- payment fees have gone up with most  
8 providers since then.

9           The other thing is a lot of providers  
10 have no started the single-call program at the  
11 higher rate for the call and that does a great job  
12 of moving commissionable revenue out of  
13 commissionable revenue to bonus revenue which is  
14 much, much smaller. The fees that I charge, Bill  
15 charges, are on the low end of that spectrum and  
16 I'll talk about that in just a second.

17           In terms of what needs to be done, I  
18 think first and foremost, the FCC needs to decide  
19 what fees are going to be allowed. Okay, my cut  
20 on that is you ought to get rid of all of them  
21 except the fees where the consumer makes a choice.  
22 Let's say your family member is in prison, right,

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1 and they're there and they're going to be there  
2 and you know that you can mail in a payment and  
3 you have no cost, no fee for mailing in the  
4 payment. Then I don't believe your rate should  
5 include the cost for somebody who wants to use a  
6 live operator, which is much more expensive, to do  
7 a payment than it is to mail it.

8           So my cut on it is that number one, you  
9 decide what you're going to do. Once you decide  
10 that, then let's have the rest of those fees that  
11 you approve the cost. The fees that I recommend  
12 being included are the cost to do a payment on the  
13 web, a cost to do payment on IVR, a cost of the  
14 live agent and then you have your other payment  
15 processor like Western Union and Money Gram. I  
16 believe also those fees ought to be the very best,  
17 lowest fee. And so that gives the opportunity for  
18 the family's money to be in phone calls, not be in  
19 fees. And I think that's the starting point.

20           So if you went down the road with this,  
21 what would you do? You'd decide the fees that  
22 were going to be permissible. You'd ban all

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1 others. You'd cap the fees or put a safe harbor  
2 rate and it would apply across the country. The  
3 other thing that I think would be unbelievably  
4 helpful for the family members is to require the  
5 vendors -- number one, we got a tariff for  
6 everything; number two, we got to have it on our  
7 website. You know, consumer wants to know what  
8 they're being charged. They have the right to see  
9 it. They should be able to go to my website and  
10 see all my fees. We do that today and I know  
11 several companies do that as well.

12           And the last thing, I think -- I know we  
13 do this -- I think it's something that needs to be  
14 done -- is provide the family a statement, right.  
15 If they paid me money over the month, why not give  
16 them a statement every month that says exactly  
17 what they spent, what their payment was, any  
18 state-mandated charges. I mean there are states  
19 like South Carolina, God bless them, and I think  
20 there are about eight charges that are their  
21 mandated charged and it's confusing. And unless  
22 you put that on a piece of paper for somebody to

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1 see, it's really time-consuming to try to explain  
2 it.

3 But anyway, in closing, I commend the  
4 FCC for what they've done. They got a great start  
5 but we're not there yet and we got to get moving.  
6 And the critical part of this is the fees. Thank  
7 you.

8 MODERATOR ZESIGER: Thank you to all our  
9 panelists for your comments. We've got a series  
10 of questions. We welcome, of course, questions  
11 from the audience and from the internet. We're  
12 receiving questions via [livequestion@fcc.gov](mailto:livequestion@fcc.gov) and  
13 via our Twitter account here.

14 Let me begin, Mr. Baker, with you.  
15 You're in charge in your functions at the  
16 Commission of more than just prison pay phones.  
17 You're in charge of utility regulation in a  
18 broader sense. In those functions, you deal with  
19 on a day-to-day basis for a long period of time  
20 through your tenure telephone companies that  
21 provide normal service, basic telephone POTS  
22 service and other types of service.

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1           To what extent are fees like this, like  
2 what we've heard about this morning, what you've  
3 seen common and used in that setting, in the  
4 general provision of telephone service?

5           MR. BAKER: Well, with the ILECS and  
6 CLECS, you have a basic level of service and  
7 that's why I think it's important to define what  
8 is basic inmate calling service. And that's a  
9 level of service at which everything is provided,  
10 you know, essentially at this charge and so any  
11 fee should be incorporated in the cost. Now --  
12 but I think Mr. Townsend's right. When a customer  
13 has an option to go beyond that basic level of  
14 service and, for instance, on payments, they  
15 should be able to pay by cash, money order, check,  
16 and online banking at no charge. But now if they  
17 want to get that payment there quicker through the  
18 use of a credit card or through a payment transfer  
19 service, then they should pay extra for that. So  
20 I think it's really important to define basic  
21 level of service and then go from there.

22           MODERATOR ZESIGER: Thank you.

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1           MODERATOR LIEN: I have a question. I'm  
2 sorry, I'm going to start with first names. I  
3 hope that's alright. Aleks, you had said that  
4 ancillary fees are a robust and hidden revenue  
5 stream, and I wanted to follow-up with that and  
6 also something that Bill said that consistency,  
7 transparency, and simplicity should be the goal in  
8 rates including ancillary rates. How do we, as  
9 the FCC, achieve this? How can we turn ancillary  
10 fees into something that are consistent,  
11 transparent, and simple instead of a robust and  
12 hidden revenue stream? Aleks, anyone, please.

13           MS. KAJSTURA: Well, I think the  
14 simplest thing would be to start with the tools  
15 that you already have such as the tariffs. If all  
16 the rates need to be tariffed, the fees should be  
17 too, and I know so companies do it's definitely  
18 not standard practiced. I mean that's just a  
19 really simple that could be taken at least to get  
20 a sense of the scope of the problem, what's  
21 charged, how much for what in terms of, you know,  
22 your data collection.

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1           MR. PETRO: Well, we have argued that  
2 all of the fees should be eliminated in our  
3 proposal, and it's based primarily on the idea  
4 that the fees -- or the phone rate itself is so  
5 much higher than the cost to providing the service  
6 that the ancillary fees that we're talking about  
7 can be included in the 25 cents or 21 cents and  
8 still provide an equitable result for the phone  
9 company as well. You know, we put information  
10 into the record in our initial study showing that  
11 the costs of providing the service is less than 5  
12 cents. So to the extent that, you know, the other  
13 14 or 9 cents, you know, 9 to 14 cents are going  
14 to be chewed up in ancillary fees or the cost of  
15 providing those types of services, you know, the  
16 fees can be eliminated.

17           The other way of dealing with it if  
18 you're not going to eliminate the ancillary fees  
19 is to follow the path of what Alabama has done or  
20 New Mexico where you say these are the fees that  
21 you can do and you can charge no other fee than  
22 these. And I mean if the FCC is going to go down

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1 the path of, you know, capping fees and not  
2 eliminating all of them, then I think that's the  
3 only way you keep it simple and you keep it -- and  
4 it's transparence on your website, it's on -- you  
5 know, it's on the tariffs, it's across the board,  
6 and then anytime a violation can be identified,  
7 it's a simple complaint process.

8 MR. POPE: On top of that, debit calling  
9 normally doesn't have fees. That's a balance  
10 that's moved out of the inmate's commissary or  
11 maybe he's purchasing a calling card. So  
12 generally, I don't think providers charge fees. I  
13 know that we don't charge fees on the debit  
14 calling, so we're talking basically about half the  
15 calls which is mostly prepaid collect calling  
16 where the family does pay a fee if they speak with  
17 a live account representative to establish that  
18 account on a realtime basis so they can use that  
19 balance immediately.

20 MR. TOWNSEND: I think one of the  
21 challenges, though, just to point to the debit is  
22 Bill is correct that there is in many cases a fee

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1 that's charged to the family to put the money into  
2 the debit account and that's got to be monitored  
3 so that there's' not any abuse there.

4 MR. POPE: But further to that, a lot of  
5 times it's the commissary provider charging that  
6 and they don't even fall under the guise of the  
7 FCC, so let's --

8 MR. TOWNSEND: Yeah, good point.

9 MODERATOR ZESIGER: I want to just draw  
10 your attention again to this pie chart, Vince,  
11 that you put together. Thank you. That's of  
12 service to the whole workshop here understanding,  
13 of course, these are estimates. And just starting  
14 with you, Bill, if you could take a look at that,  
15 does that make sense to you, too, as another  
16 provider? Is that the kind of breakdown that you  
17 see in your business?

18 MR. POPE: I hadn't -- this is the first  
19 time I've seen this chart.

20 MODERATOR ZESIGER: So let me let you  
21 have a moment to take a look at it to be fair and  
22 this takes a sum of \$100.00, Vince, if I

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1 understand your pie chart here. Aleks, looking  
2 back at the work that you all did --

3 MR. POPE: This is the worst case  
4 scenario. This is --

5 MODERATOR ZESIGER: -- in your report  
6 last year, you tried to -- you attempt at least to  
7 estimate the total dollar value of all these fees.  
8 I thought that was a significant effort and I  
9 wonder if you'd comment on that in relation to  
10 this.

11 MS. KAJSTURA: Sure. I think this would  
12 be a subsection of our pie chart that we did as a  
13 cost of all the money spent on phone calls in the  
14 prison system, what percentage would fees be, and  
15 this is as further breakdown of that. So this  
16 provides a lot of detail. Now one thing I think  
17 that -- and we also had to rely on estimates. We  
18 used one company's fees and -- that were kind of  
19 generally applicable and then extrapolated it from  
20 there. So I think this kind of work that Vince  
21 has put together is really great because these are  
22 figures that nobody's been able to really find so

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1 these kind of guesses and estimates are the best  
2 we have.

3           And one thing to keep in mind here is  
4 there is great variability. Like this is based on  
5 \$100.00 but oftentimes, there are maximums just on  
6 the payment processing fees here. There would be  
7 great variability there based on what is the  
8 maximum you're allowed to put in at one time.  
9 Oftentimes there are pretty low maximums set that  
10 trigger that fee over and over again. So if  
11 you're only allowed to put in say \$25.00 at a  
12 time, which is not unusual, and they charge your  
13 \$10.00-\$15.00 a time, to get up to \$100.

14           that's already going to be \$40.00-\$50.00  
15 right there.

16           MODERATOR ZESIGER: Maybe go back to  
17 you, Bill, if you have a moment to --

18           MR. POPE: I think Vince's chart is kind  
19 of a worst case scenario that yes, there is  
20 situations where people deposit -- you know, if  
21 they have \$100.00 to spend, they may ultimately  
22 only end up with about \$40.00 to spend on phone

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1 calls.

2           Going back to Aleks and Peter Wagner  
3 with the Prison Policy Initiative, they did a  
4 large report on the fees, kind of broke out a lot  
5 of the fees. We actually had fees that they  
6 showed for us that I didn't even know existed in  
7 our tariff, so we quickly went in there and  
8 updated our tariffs, removed a lot of those fees.  
9 But generally, on our service, if somebody has  
10 about \$100.00 to deposit, you know, between 90 to  
11 92 percent of that, \$92.00 they'd be able to use  
12 for phone calling.

13           MODERATOR ZESIGER: I want to get back  
14 to the dollar amounts as well to kind of get a  
15 sense of the scope of this issue. We've heard  
16 testimony and the report, Aleks, that your group  
17 has done pointed to something approaching 40  
18 percent of all expenses, and I think you said 40  
19 percent of something like a billion dollars a year  
20 of annual revenues for the industry. I don't want  
21 to put words in your mouth but is that roughly the  
22 size of these funds or these revenues that are

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1 derived from these fees today as well a year  
2 later?

3 MS. KAJSTURA: We haven't been able to  
4 update our numbers a year letter. You know, this  
5 is a recurring theme here. This data is really  
6 hard to get. I know a couple of folks have  
7 mentioned more number and Vince has more in his  
8 chart. The only one I've come across is Securus  
9 raising their fees. So, no, we don't really have  
10 updated numbers but I mean we expect to see a  
11 shift.

12 MODERATOR ZESIGER: And to go to the two  
13 providers, Bill and Vince, do those estimates  
14 sound close to what you experience, the percentage  
15 amounts at least? I think it's 38 percent is what  
16 Aleks's study estimated the fees would represent  
17 for all expenditures, all revenues?

18 MR. POPE: It can be that high.  
19 Depending on the provider, it can be that high.

20 MR. TOWNSEND: I would argue that it's  
21 actually getting higher with the advent of the  
22 single- call program. If you charge somebody

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1 \$15.00 for a phone call and you put that in the  
2 mix, that's what's in this pie that moves it past  
3 their 38 percent. And that's really my  
4 observation is more companies have started  
5 engaging in that practice since the order.

6           And it accomplishes two things: one,  
7 obviously revenue generator but two, it shields a  
8 tremendous amount of money from commissions  
9 because that revenue is not on the commission  
10 bucket at 80 percent or whatever percent. It's  
11 over here at 10 percent or 3 percent or whatever.

12           MODERATOR ZESIGER: Do we have any way  
13 of estimating what percent of all ICS calls are  
14 single- call program calls?

15           MR. TOWNSEND: I mean the easiest way to  
16 do that would be for the sheriff to take his  
17 commission statement this month and look at the  
18 number of calls on it and then multiply it, you  
19 know, by \$15.00 and multiply by \$10.00 on the  
20 other one. I mean we've looked at some of that  
21 I've seen some as high as 40 percent of the  
22 revenue -- is at 40 percent, not the measly 15

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1 percent I have on here but as 40 percent of the  
2 revenue has been in the single calls.

3 MS. KAJSTURA: I just wanted to add that  
4 our chart was based on GTL which is the largest  
5 ICS provider, and so, you know, if you're asking  
6 Bill and Vincent here whether this reflects their  
7 reality, I wouldn't expect it to because they're,  
8 again, way more on the reasonable end of things.  
9 GTL has some of the highest rates but they take up  
10 such a huge share of the market that this is  
11 really representative of what it feels from the  
12 perspective of the family members, is the 30  
13 percent.

14 MR. TOWNSEND: Yeah. And the pie -- and  
15 I appreciate Aleks saying that. I mean Bill  
16 mentioned 90 percent, 92 percent and that example  
17 for us, the number of calls the family can make is  
18 not the 12. It's more like 27 or 30 phone calls  
19 out of the same amount of money.

20 MODERATOR LIEN: Darrell, can I ask  
21 what's your experience been in Alabama with the  
22 single-call program? What have the challenges

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1 been for you?

2 MR. BAKER: Well, I've been in  
3 telecommunications for 34 years and 32 at the  
4 Alabama Public Service Commission. And one thing  
5 I'll say is I have never seen an industry that is  
6 less transparent than this one. It is extremely  
7 difficult to get data, to get information. So to  
8 get back to your question, I will say this. There  
9 are calls for Pay Now and Text-Connect that are  
10 \$14.99 and \$9.95. There are also providers like  
11 NCIC over here who are charging \$5.95 for that  
12 Text-Connect service.

13 But again, if the FCC looks at what's  
14 happened since February when they implemented the  
15 interim rates, a lot of these providers have  
16 jumped in now and started offering single-payment  
17 services. And so the question is becoming why are  
18 they doing that. Well, because there is a source  
19 of revenue that's not regulated by the FCC's  
20 rates.

21 MR. POPE: Further to what Darrell is  
22 saying, and a lot of these -- the SMS text

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1 messages are billed by the mobile carriers though,  
2 like Verizon, Spring, AT&T Wireless, and so they  
3 don't fall under the state regulators.

4 MODERATOR ZESIGER: Lee, if I could --

5 MR. PETRO: Sure.

6 MODERATOR ZESIGER: -- direct a question  
7 to you? In your opening remarks, you mentioned  
8 that Section 201 of the Communications Act was the  
9 jurisdictional basis for the Commission acting in  
10 this area. Section 276 also addresses some of  
11 this. I wonder if you have any comments about the  
12 role it plays in providing jurisdiction to the  
13 Commission.

14 MR. PETRO: Sure. You know, I picked  
15 201 because they actually lay it out nice and  
16 clean, and 276 does as well. You know, the FCC is  
17 required to make sure that the rates are fair.  
18 And in the order, the FCC made the -- or agreed  
19 with us that a fair rate is one that's fair to  
20 both the service provider and to the customer.  
21 And so to the extent that these ancillary fees  
22 and, you know, the single-payment type calls

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1 result in unfair and unjust and unreasonable  
2 rates, then the overall impact on the customer is  
3 -- no longer fits within the confines of Section  
4 276. So I would argue that because Section 276  
5 not only deals with the interstate but it deals  
6 with intrastate as well, you're covered with  
7 regard to moving forward and dealing with rates  
8 that are being charged for calls that stay within  
9 the states as well.

10           So I mean I started out talking about  
11 Section 201 and the jurisdictional question  
12 because quite frankly, you know, we've seen a lot  
13 of back and forth in the filings over whether the  
14 FCC can even regulate this. And it's mystifying  
15 to me because the FCC regulates so many other  
16 aspects of telephone calls and basic POTS and the  
17 rates that can be charged and the types of billage  
18 you can get that, you know, Section 201 and 276  
19 provide blanket coverage for inmate phone call --  
20 or inmate calling services as well. So, I mean, I  
21 would be interested in seeing an analysis that  
22 overturns that because I haven't seen it yet.

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1 MODERATOR ZESIGER: Thank you.

2 MR. PETRO: Yeah.

3 MODERATOR ZESIGER: Want to turn to the  
4 question of cost, the cost of these services.  
5 We've talked about the rates, of course, and  
6 Vince, your company, it kind of stands out in  
7 terms of our record at least, in terms of  
8 attempting to quantify those costs. Last summer  
9 your company submitted extensive cost data and  
10 cost data with regard to the provision of  
11 ancillary services. I wonder -- other providers  
12 have talked about the difficulty of analyzing and  
13 determining these costs. I wonder if you would  
14 address those questions and just how difficult is  
15 it to come up with a cost figure for some of these  
16 ancillary charges?

17 MR. TOWNSEND: It's not easy, okay, but  
18 it's data that we keep separated. So by keeping  
19 it separated, we are able to track it and, of  
20 course, since our work last summer, we retained a  
21 consultant, Don Wood, to help us with that study  
22 and he gave us some good guidelines on how to help

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1 put all that data together. And then, you know,  
2 once you have the format in place, it's been --  
3 it's something we've been able to track and that  
4 way be prepared for the data requests that you  
5 folks most recently made.

6           It's important, I think -- go back to  
7 what's been said -- but it's important to  
8 emphasize that the starting point with our cost  
9 study was we made a decision that all cost other  
10 than the payment services were going to be in the  
11 rate. Okay, so when we did our cost study, the  
12 rate, our rate included instead of having several  
13 other fees, just all that was in the basic  
14 service. So we were then able to separate out and  
15 have, okay, here's our cost to do an IVR payment,  
16 a web payment, and here's our cost to do a live  
17 agent payment. And, you know, it would be a much  
18 more cumbersome project if we had eight fees and  
19 I'm trying to allocate cost amongst all the fees.  
20 So to me, the starting point is to decide what  
21 fees you're going to allow and then tell me, you  
22 know, allocate my cost to this fee and that fee

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1 and then everything goes in the rate.

2           MODERATOR ZESIGER: And just to get a  
3 comparative perspective, Bill, Vince says that  
4 he's kept that data, and I guess as a matter of a  
5 normal course of business kept that data  
6 segregated or apart from his other financial data.  
7 How do you all keep your data? Is that the -- is  
8 there a way for you all to get at that kind of  
9 cost data?

10           MR. POPE: Yeah. There's a way to get  
11 to it. It will be difficult, especially if we  
12 have to break it down by facility. That's one way  
13 we've never looked at it before but looks like  
14 we'll be doing that soon anyways.

15           MODERATOR ZESIGER: And with regard to  
16 ancillary charges, I don't -- I think that's not a  
17 facility specific calculation that's requested so  
18 it may be just a little bit easier?

19           MR. POPE: Yeah, that'll be easier.  
20 We've got one flat fee structure nationwide.

21           MODERATOR ZESIGER: Good. And just to  
22 turn, Darrell, to you on this question of the cost

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1 of these services and how closely they compare to  
2 the rates. To what extent did the Alabama  
3 Commission look at the cost of these and use cost  
4 data or cost background to inform your process of  
5 setting the rates you set?

6 MR. BAKER: The Alabama Public Service  
7 Commission, we really don't have any cost data. I  
8 mean if you look at the FCC record, they didn't  
9 have a whole lot either. You had Pay-Tel that  
10 submitted their study and we got a hold of the  
11 unredacted version of that study and went through  
12 it. You had the 2008 information that was sent to  
13 the FCC but other than that, where's the cost  
14 stated? They're not providing it, so we went --  
15 we basically used what was in the FCC record in  
16 terms of the setting the fees.

17 MODERATOR LIEN: I'm going to follow-up  
18 with you Darrell. You had mentioned that in  
19 Alabama, you had recently moved to regulate third-  
20 party payment transfer fees. I wonder if you can  
21 talk about that a little bit and Aleks or anyone  
22 else, if you have any knowledge of any other

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1 states that have acted accordingly, the same or  
2 differently than Alabama?

3 MR. BAKER: If you look at payment  
4 transfer fees, we're essentially talking about  
5 Western Union and MoneyGram. Western Union has a  
6 service called "Quick Collect" and they charge  
7 \$9.95. We believe there is some revenue sharing  
8 that goes on with Quick Collect because we have a  
9 comment in our proceeding that said they don't  
10 want to reduce that fee because part of it goes to  
11 support this other service over here.

12 They also have -- Western Union offers a  
13 prepaid service alternative to providers for \$5.95  
14 in Swift Pay, a different system. Swift Pay, I  
15 believe you have to enter into exclusive  
16 agreements with Western Union for \$5.50. So we  
17 have providers in Alabama that are offering to  
18 their customers to go through Western Union and  
19 pay fees that range from \$5.00 to \$11.95. Now  
20 wait a minute, Western Union charges \$9.95 for  
21 Quick Collect. How can it be \$10.95 or \$11.95? I  
22 think what you're going to find is that there are

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1 arrangements that providers can make with Western  
2 Union to charge more than what it costs for Quick  
3 Collect in \$1.00 increments, and then that money  
4 is then returned back to providers so the customer  
5 is being charged twice. Did that answer your  
6 question?

7 MODERATOR LIEN: Does anyone have any  
8 information about any other state that has acted  
9 similarly to Alabama or differently? No?

10 MR. POPE: Louisiana is working on the  
11 rates. They haven't finalized their fee schedule.  
12 I know Nebraska is talking about it. City of San  
13 Francisco is working on it. Then I've seen  
14 something recently about New Jersey looking at  
15 rate regulation.

16 MR. PETRO: And New Mexico had adopted  
17 just a blanket \$3.00 rate for -- regardless of how  
18 you fund your accounts so, you know, -- and that  
19 was based on a comprehensive, or what we think is  
20 a comprehensive, data collection effort on their  
21 part. So -- and I think Commissioner Marks was  
22 here last year talking about that as well.

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1           MODERATOR ZESIGER: Lee, just to follow-  
2 up on that point.

3           MR. PETRO: Yeah.

4           MODERATOR ZESIGER: Is the \$3.00 fee  
5 applied to the third-party payment programs as  
6 well as the direct?

7           MR. PETRO: My notes say yes. I can  
8 follow- up and let you know.

9           MODERATOR ZESIGER: Sure.

10          MR. PETRO: But yea, as far as I can  
11 tell, you know, they adopted a \$3.00 funding rate  
12 and then prohibited any other charge other than  
13 what they authorized, and that's why earlier I had  
14 commented -- I mean if the Commission's going to  
15 go down the road of permitting some rates to be  
16 charged, ancillary fees, then I think what they  
17 need to do is just articulate exactly what those  
18 rates are and prohibit everything else.

19          And, you know, it would have been useful  
20 if we got this information -- if the FCC got the  
21 information when they asked for it in the NPRM in  
22 December of 2012 or 9in the data collection

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1 follow-up supplementary request in July of last  
2 year or even when they filed -- or even in  
3 response to the further notice. I think it's  
4 useful to remember that the FCC has asked for this  
5 specific information on at least three occasions  
6 in the past 12 months, 18 months and the parties  
7 have refused to give it. And so at a certain  
8 point, I think the FCC is under the obligation to  
9 just move forward, use the data that they have and  
10 hopefully what comes in next week will look  
11 halfway decent and will be accurate and adopt, you  
12 know, final rules.

13 MODERATOR ZESIGER: Good. I want to --  
14 go ahead, Alex, please.

15 MS. KAJSTURA: Let me follow-up on that.  
16 When the FCC takes a look at the third-party  
17 payments, I think there are a couple of things  
18 that you should look for. One, as Darrell  
19 mentioned, some of the fees that are charged by  
20 Western Union are much lower than the others and -  
21 - but some of those are then coupled with a fee  
22 from the ICS company itself. So when basically

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1 the ICS company doesn't take advantage of the  
2 kickback from Western Union, they just slap on  
3 their own fee instead. So that is something to  
4 watch for I think is that it wouldn't be enough  
5 just to lower the fees for Western Union. You  
6 have to then also make sure that the company isn't  
7 charging its own separate fee for having accepted  
8 the Western Union payment.

9           MODERATOR ZESIGER: Thank you. I want  
10 to step back for a moment. We've had several  
11 statements from several panelists as to fees that  
12 are appropriate and fees that are not appropriate.  
13 I want to just kind of get a little more of a  
14 focus on that from each of the panelists. And  
15 Darrel, I'll start with you to give you heads up  
16 here, and you've addressed this in part, but if  
17 you can just be as specific as you can be this  
18 morning -- this afternoon now, what are  
19 appropriate types of charges and what kinds of  
20 charges are problematic or inappropriate?

21           MR. BAKER: We -- again, we establish a  
22 basic level of service for ICS and then look

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1 beyond that, you know, what should be provided in  
2 that to the customer free of charge in terms of  
3 ancillary charges or ancillary services. And then  
4 we go beyond that to see, okay, what is beyond  
5 that. And I think if the customer has an option  
6 on payment, if they want to submit payment by  
7 credit card which gets there quicker than money  
8 order or check, then we establish that as a fee  
9 because it's an option. And then there are  
10 various ways of making payments. There's IVR,  
11 there's live agent and they all carry with them  
12 different costs.

13           And then the other thing is if we -- in  
14 Alabama, we say that everybody is entitled to an  
15 account statement electronically except for debit.  
16 Inmates obviously don't have access to it. But if  
17 that customer wants a paper bill, then we  
18 establish a minimal paper bill fee for them to  
19 going to get that service. So anything that's  
20 optional.

21           MS. KAJSTURA: I agree with Darrell on  
22 what he mentioned earlier about the regulatory

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1 recovery fees. I mean that's just the cost of  
2 doing business. That shouldn't be feed out  
3 separately. And beyond that, you really need to  
4 take a look at how much the fees are apart from  
5 the question of which fee should or should not be  
6 allowed. You know, in life, we all pay  
7 convenience fees for all sorts of things we do  
8 with our credit cards but just the size of the  
9 those fees just doesn't even begin to compare to  
10 the fees charged in this setting.

11           And one thing on -- I think Darrell  
12 mentioned grouping it into optional versus service  
13 -- one thing to keep in mind would be in the jail  
14 setting where just circumstances necessitate a  
15 quicker method of payment than sending a check  
16 that may take a week to get processed, so that  
17 might be somewhere if that were the route that FCC  
18 were to take, to maybe have some exceptions in  
19 those cases.

20           MR. PETRO: I started earlier, none.  
21 You know, as far as we have been able to  
22 determine, the ancillary fees are a mechanism to

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1 make up for reductions in rates. We've seen now  
2 with the reduction in the interstate rates an  
3 increase in the intrastate rates and an increase  
4 in the ancillary fees, and we have yet to see the  
5 data that would support that. And, you know, to  
6 the extent that there is data that would support  
7 the imposition of ancillary fees, and to the  
8 extent that the ICS providers refused to provide  
9 it to the FCC, then one approach would be to ban  
10 ancillary fees and then have them come in and ask  
11 for a waiver much like Pay-Tel did with their  
12 waiver to substantiate a variation from the rule.

13           So, you know, until we can get a cleaner  
14 answer on what it actually costs to provide the  
15 phone service and then what that rate should be --  
16 I mean if the FCC had adopted our 7 cent per  
17 minute rate, then perhaps we could have a  
18 discussion about what those -- or whether there  
19 are good ancillary fees. But instead, we're at 21  
20 and 25 which is what we had proposed back in 2007  
21 based on 2005 data. And the fees are, you know,  
22 as we're talking, \$11.00 for a wire transfer but

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1 when you walk into, you know, Walmart, you're not  
2 paying \$11.95 for a wire transfer and you're not  
3 paying when you're on Amazon to use your credit  
4 card to make a payment.

5           So, you know, until we can figure out  
6 and get the different Lego pieces and start  
7 stacking up what the costs are, I would say none.

8           MR. POPE: The Alabama Public Service  
9 Commission covered about six fees in their recent  
10 ruling. They had account funding fee with a live  
11 operator. I mean prior to prepaid collect  
12 calling, inmates, you know, they couldn't speak to  
13 a live operator, still don't let them speak to a  
14 live operator but we put them on hold and call out  
15 to the family and the family can talk to a live  
16 operator realtime. So that's basically the fee is  
17 used as a cost recovery to offer that live human  
18 interaction there.

19           Generally, the fees had started out as a  
20 cost recovery. Some of them probably moved up  
21 beyond the actual cost recovery. Some of the fees  
22 -- there's like a voice biometrics fee. We have

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1 to pay a license to a third party for that, so  
2 ideally I'd like to recover that. But, you know,  
3 for the most part, I believe the Alabama Public  
4 Service Commission covered most of the fees in  
5 their ruling.

6 MR. TOWNSEND: Yeah. I would echo again  
7 what I said earlier. I think to me, what I  
8 characterize as ancillary fees are all these extra  
9 things that really should be incorporated into the  
10 cost of the call. To me, the fees that should be  
11 separated are the ones that are driven by consumer  
12 choice. If the family, as I stated earlier, the  
13 loved one is in prison and they know that and they  
14 send in a payment or they do a bank transaction  
15 and there is no cost, they ought to have the right  
16 to do that and not have their rate include the  
17 cost that it takes for a family member to use a  
18 live agent to set up an account.

19 And I appreciate Aleks's comment because  
20 she's spot on. In the jail environment,  
21 everything happens rapid fire, 25 hours a day, 7  
22 days a week, and you take -- and a facility that

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1 has 200 inmates, in that 30 days, you're going to  
2 probably run about 625 inmates through the  
3 facility, a third of which will make phone calls  
4 and not one of them will be a revenue producer for  
5 our company. The two-thirds -- that two-thirds,  
6 those folks that are left, the 400, on average we  
7 set up five accounts for each one of those four.  
8 And again, rapid fire, all the time, 24 hours a  
9 day.

10           And that individual makes that choice;  
11 do they use a credit card and go on the web; do  
12 they use a credit card and do it with an IVR; or  
13 do they talk to a live agent. All of those costs  
14 are different. What I tried to do and what I've  
15 presented to the FCC last July in response to  
16 their request was we said all of these other  
17 things are in the rate. The only thing separate  
18 are basically what the Alabama Commission did,  
19 what Bill just talked about, is on this chart.  
20 It's just to make a payment with the IVR, make a  
21 payment with the web, do a live agent payment, and  
22 then of course your other Western Union and your

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1 MoneyGram. But I think those things are  
2 imperative that those be treated separately.  
3 Those be at cost, not be a profit center, and that  
4 way the consumer -- and one thing we do -- just as  
5 an side, really quickly -- is -- it's very  
6 interesting.

7           Western Union doesn't like this news but  
8 at one point in time, about 40 percent of our  
9 customer base, the families, we saw were making  
10 payments with cash. And so what we started  
11 advertising on our website was the most economical  
12 way was that they could go and get a debit card,  
13 so they could then take the debit card, either buy  
14 one at Walmart or Walgreens or somewhere, and then  
15 take that card and then make a payment over the  
16 web or on the automated phone system. And in our  
17 world, that payment fee for us is three bucks. So  
18 that beat the 5.95 we had at western Union which  
19 is already low and it beat the 5.65 that was at  
20 MoneyGram.

21           So again, educating the consumer, giving  
22 them the choice, what's the most economical way if

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1 they want to get money on an account and do it  
2 quickly. In our environment, because we serve  
3 jails, we try to give them those tools so they can  
4 then make the intelligent choice.

5 But from our perspective, having those  
6 things separated, having a cost for those, having  
7 it cost is paramount for this to be a viable model  
8 going forward, has to have that.

9 MODERATOR ZESIGER: Thank you. This  
10 brings to a close our question and answer period.  
11 Thank you to the panelists for the second panel.  
12 You've made a significant and material  
13 contribution to our process. We look forward to  
14 continuing to stay in touch with you all and  
15 working with you all as we go forward.

16 It's time for our lunch break at this  
17 point. I think we're due back 2:00 o'clock. Thank  
18 you.

19 (Whereupon, off the record for a lunch  
20 recess.)

21 MODERATOR GUDE: All right. Thank you,  
22 everyone. We are ready to start our panel number

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1 three. The topic of this panel is "Understanding  
2 the provision of ICS in different facilities,  
3 understanding cost structure, service differences,  
4 etcetera based on size of facility, based on  
5 prison, jails, other distinctions that are out  
6 there.

7 My fellow moderators, my colleague Lynne  
8 Engledow will join me and everyone has already met  
9 Darrell Baker from the Alabama PCS. He has kindly  
10 agreed to serve as a moderator here as well.

11 In terms of panelists, we have Elias  
12 Diggins, Denver Sheriff Department on behalf of  
13 the American Jail Association. We have Alex  
14 Friedmann from Prison Legal News. We have Aleks  
15 Kajstura from Prison Policy Initiative, Kevin  
16 Landy from the U.S. Immigration Customs  
17 Enforcement Department of Homeland Security. We  
18 have Richard Smith, CEO of Securus, and we have  
19 Thomas Sweeney from Global Tel Link.

20 So, with that, we will turn it over to  
21 Elias to kick us off. Thank you.

22 MR. DIGGINS: Good afternoon. It is

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1 truly an honor and privilege to be before the FCC  
2 today and to represent jails from across this  
3 great nation. My name is Elias Diggins and I'm a  
4 Division Chief with the Denver Sheriff's  
5 Department in Denver, Colorado where I have served  
6 for 20 years. I'm here today as a Board member  
7 for the American Jail Association, a body of  
8 detention and corrections professionals who  
9 represent the voice of the United States 3,000-  
10 plus local detention facilities.

11           Through the work I've been involved with  
12 in running one of the largest jails in the country  
13 as well as my work with the American Jail  
14 Association, the American Correctional  
15 Association, and the National Institute of  
16 Corrections Large Jail Network, and in  
17 conversations with the National Sheriff's  
18 Association, I can tell you that at every  
19 conference and every venue at every level, this  
20 issue is on the forefront of discussion of jail  
21 administrators of facilities of all sizes. When  
22 discussing what is just, reasonable, and fair in

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1 this forum, it is our hope that the same values  
2 are extended to us when considering the charge  
3 which we are called to do, to serve and protect  
4 our community by keeping America's jails safe and  
5 secure.

6 My first point of discussion is how  
7 sophisticated the phone systems have become and  
8 how we as law enforcement officials have come to  
9 rely on this irreplaceable tool to combat crime at  
10 all levels. Included in the comments to the FCC  
11 regarding this issue was a correspondence from the  
12 District Attorney of Denver Colorado, Mr. Mitch  
13 Morrissey. In his letter, he specifically talks  
14 about the killing of Denver Bronco Darren Williams  
15 and how the technology used in our inmate calling  
16 system became critical evidence in the conviction  
17 of the parties to this horrible crime.

18 Unfortunately, criminal activity is often  
19 generated from behind the walls of jails and those  
20 involved are becoming even more smarter about how  
21 to circumvent our discovery of their activities.

22 ICS providers must be allowed to remain

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1 competitive as they continue to introduce newer,  
2 better and bolder technologies as we protect our  
3 community. Should the ICS providers or agencies  
4 who oversee jails not be able to afford to run  
5 them as they do today, we will certainly take a  
6 step back in the prevention of crime if these  
7 systems are reduced to simple mechanisms, or in  
8 the worst case scenario, are removed altogether.

9           The second point I would like to make is  
10 there has to be a clarification from the FCC on  
11 what is required in regard to commissions and cost  
12 recovery. This applies not only to the previous  
13 interstate ruling but should be clearly spelled  
14 out in any decision regarding intrastate  
15 guidelines. There still exists today confusion  
16 not only amongst the many sheriffs and jail  
17 administrators across the country but various  
18 inmate calling systems providers also. To that  
19 end, cost recovery will vary from jail to jail and  
20 state to state as the salaries and expenses each  
21 agency incurs in managing their systems is ever  
22 different. The salary of a sheriff's deputy who

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1 is responsible for monitoring a system in  
2 Washington, DC is not the same as his counterpart  
3 in New Orleans or Dallas or Polk County, Florida  
4 or Salt Lake City. We're glad to hear that the FCC  
5 plans to work with each state or each state's  
6 sheriff's association to create a reasonable rate  
7 for cost recovery in their jurisdictions.

8           My last and final point is to address  
9 the assertion that jail and prison administrators  
10 are resistive to changing the rates or model of  
11 inmate calling systems and therefore, and I quote,  
12 reducing recidivism is not one of our priorities.  
13 Nothing could be further from the truth. I have  
14 been to jails in El Central, California, in  
15 Brandon, Mississippi and Licking County, Ohio, and  
16 Tampa Bay, Florida and many others. There was not  
17 one that I visited where the sheriff or jail  
18 administrator was focused on programs for  
19 offenders which are geared toward reducing  
20 recidivism.

21           In regard to inmate phone systems, we  
22 too want the folks in our custody to stay in

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1 contact with their families since this helps them  
2 to stay focused on completing their sentences and  
3 allows them to take advantage of the opportunities  
4 to prepare prior to release and to be successful.  
5 When a person is worried about their family, they  
6 certainly are not concerned about the classes we  
7 have to offer. We want them to be engaged in  
8 those programs and staying connected to their  
9 support system outside the jail helps them while  
10 they're in custody and is important for them in  
11 not returning.

12 We want to have the discussion regarding  
13 what is just, reasonable, and fair when it comes  
14 to call rates. We simply just want to make sure  
15 that the methodology to this issue comes with a  
16 balanced approach that preserves the interest of  
17 all parties to the subject including the thousands  
18 of law enforcement officers who are charged every  
19 day in serving America's jails. Thank you.

20 MODERATOR GUDE: Thank you very much,  
21 Elias. Next, Alex Friedmann.

22 MR. FRIEDMANN: I would like to thank

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1 Chairman Wheeler and the Commission for this  
2 opportunity to address the continuing need for  
3 reform of the prison telecommunications industry.  
4 There are a number of cost drivers for the  
5 provision of inmate calling services including  
6 notably the commissions paid to contracting  
7 government agencies such as departments of  
8 corrections and sheriffs offices, plus there are  
9 infrastructure costs of installing the phones  
10 themselves and related hardware, security- related  
11 costs regarding security features such as call  
12 recording, three-way call detection biometrics  
13 which are often software-based and automated, and  
14 there are costs associated with setting up and  
15 monitoring phone accounts for prisoners and those  
16 they call, mainly their family members.

17           While inmate calling services in jail  
18 are -- the cost of inmate calling services in  
19 jails are reportedly higher than in prisons, the  
20 actual cost of providing such services are largely  
21 unknown because most prison phone providers have  
22 not made their actual cost data of service

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1 available to the Commission. Costs based on a  
2 tiered basis due to facility size may be  
3 appropriate but should be evidence-based and where  
4 the record lacks evidence, it's difficult to do  
5 that.

6 My discussion will focus on ICS  
7 commissions which constitute a cost driver that if  
8 eliminated demonstrably results in lower prison  
9 and jail phone rates. I'll first discuss state  
10 prison systems. Eight states have eliminated ICS  
11 commissions. These eight prison systems span a  
12 tremendous range in size from a prison population  
13 of around 135,000 in California and 54,000 in New  
14 York to around 6,500 in New Mexico and just 2,000  
15 in Rhode Island. Yet when these states banned ICS  
16 commissions, the results were remarkably similar.  
17 Their phone rates dropped, often dramatically.

18 Using the example of a 15-minute collect  
19 interstate call prior to the FCC's rate caps going  
20 into effect, after New York dropped its  
21 commission, phone rates fell almost 69 percent to  
22 less than a nickel a minute, one of the lowest in

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1 the nation. ICS rates in Michigan dropped 87  
2 percent from \$17.34 to \$2.25 for a 15-minute  
3 collect interstate call, and South Carolina prison  
4 phone rates fell from \$5.19 for interstate calls  
5 to the current rate of a flat 99 cents, an 81  
6 percent decrease. California is an instructive  
7 example because that state phased out its ICS  
8 commissions from a flat \$26 million dollars in  
9 commissions prior to 2007 to zero in 2011. As the  
10 commissions were phased out, in each successive  
11 year, the cost of phone calls dropped accordingly  
12 from \$17.30 for a 15-minute collect interstate  
13 call before 2007 to around \$6.60 in 2011 for an  
14 almost 62 percent total decrease.

15 Note that in these examples, the need  
16 for infrastructure cost did not change in the  
17 eight states that eliminated ICS commissions nor  
18 did the need for security features in their phone  
19 systems. Despite the fixed infrastructure and  
20 security costs, their phone rates plummeted  
21 indicating that ICS commissions represent a  
22 primary cost driver for prison phone services.

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1           However, prisons are different from  
2 jails. While typically much smaller than prisons,  
3 jails have similar infrastructure and security  
4 needs. In addition, far more people cycle in and  
5 out of jails, around 11.6 million people per year,  
6 and some ICS providers have cited this churn as an  
7 additional cost driver for jail phone services.

8           After the Commission's rate cap for  
9 interstate phone calls went into effect, the New  
10 Jersey Department of Corrections stopped  
11 collecting ICS commissions effective February  
12 11th, 2014, and reduced its phone rates to a flat  
13 17 cents per minute. As part of its ICS contract  
14 extension, the state included a matrix for phone  
15 rates and commissions for county correctional  
16 facilities in New Jersey. Around 17 counties in  
17 New Jersey act under the state's DOC contract.

18           Those counties participating include  
19 those with small jails such as Hunterdon with 150  
20 inmates, medium jails such as Somerset County  
21 with 440 inmates, and large jails including Camden  
22 County with around 1300 inmates. The matrix

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1 consisted of a scale of commission rates and  
2 corresponding phone rates with only one exception  
3 as the ICS commissions decreased from a high of 56  
4 percent to a low of 15 percent. Under six options  
5 in the matrix, the corresponding phone rates also  
6 decreased. For example, using 15- minute  
7 intra(inaudible) calls as an example, the rates  
8 dropped from \$5.50 with a 56 percent commission to  
9 \$4.75 with a 55 percent commission to \$4.20 with a  
10 54 percent commission to \$3.50 with a 35 percent  
11 commission and so on. So as the commissioner  
12 percentages dropped, the phone rates dropped. The  
13 one exception was for the 53 percent commission  
14 level which had slightly higher rates.

15 Note that these phone rates apply to  
16 county facilities in New Jersey with different  
17 population levels, different sizes and different  
18 levels of churn, and the number of phones  
19 installed at the facilities also differed. They  
20 ranged from 15 to 165 phones in each jail. Yet in  
21 spite of the varying infrastructure costs and the  
22 consistent need for ICS security features in their

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1 phone systems, the rates at these county  
2 facilities were primarily dependent on one factor  
3 which was the commission percentage. So this is  
4 the actual chart. And the only differentiating  
5 factor between the rates is the commissions. The  
6 matrix is not based on facility size or facility  
7 population level or facility churn. The only  
8 corresponding factor with lowering of rates is  
9 lowering of commission payments.

10 Finally, according to recent news  
11 reports, San Francisco recently announced that it  
12 was reducing its jail phone rates. The cost of a  
13 15-minute collect in-state call will drop by 70  
14 percent, and a 15-minute collect local call will  
15 cost \$2.75 instead of \$4.45, a 38 percent  
16 decrease. The jail security needs did not change.  
17 They're not scaling back on security features in  
18 their phone systems. The infrastructure costs for  
19 the jails' phone system did not change. They're  
20 not pulling phones out of the jail. The churn of  
21 inmates processed through the jail has not  
22 changed. So what changed? I called up Sheriff

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1 Ross Mirkarimi yesterday and spoke with him and he  
2 said that the primary change is that his office  
3 will take in around 17 percent less in commissions  
4 under the new pricing structure.

5 that's what changed, the commissions  
6 changed.

7 So it appears that the primary cost  
8 driver for inmate calling services, whether in  
9 prisons or in jails, regardless of facility size,  
10 population levels, churn, infrastructure cost or  
11 security features is the commissions that ICS  
12 providers pay to the corrections agencies they  
13 contract with. There are definitely differences  
14 in facility size and there may be some  
15 justification for tiered rates, but those rates  
16 have to be based on evidence showing a difference  
17 in actual cost of phone calls. Thank you.

18 MODERATOR GUDE: Thank you very much.  
19 Aleks, I don't want to butcher your last name  
20 again, so I'm going to stop there. Thank you.

21 MS. KAJSTURA: So our point of view at  
22 the Prison Policy Initiative is that any

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1 difference between prisons and jails or  
2 differently sized facilities is just irrelevant to  
3 the question of predatory pricing. Sure, there  
4 are differences in providing services to different  
5 facilities and one of those factors might be the  
6 size of the facility. But that doesn't mean that  
7 people held in one size facility versus another  
8 should be denied some reasonable controls over the  
9 pricing of the telephone systems there. And so  
10 from that perspective of whether or not the FCC  
11 should protect customers that have loved ones in  
12 jails, this distinction between facility size in  
13 prison and jail is somewhat irrelevant.

14           And as an aside, some might find it  
15 helpful to keep in mind that over 60 percent of  
16 the jail population on any given day is not  
17 convicted. There are people who have been  
18 arrested. They're trying to make bail. They're  
19 still presumed to be innocent under the law.

20           And it's also important to keep things  
21 in perspective when talking about facility sizes  
22 and types. For example, in the past, a lot of

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1 folks have brought up the fact that, you know,  
2 there are all these facilities out there that are  
3 really small, very expensive, like 15-person  
4 jails. And sure, there are a few facilities that  
5 are that small and in a whole number -- as a whole  
6 number, it's not that small of a number of  
7 facilities but the people kept in those facilities  
8 make up one-fifth of one percent of the  
9 incarcerated population of the United States. Or  
10 if you go up to facilities that I think are 40 or  
11 50 people, that becomes three percent of the  
12 people that are incarcerated.

13           So the FCC shouldn't really be driven by  
14 discussion of these complete outliers on the  
15 question of whether or not it should be applying  
16 these very necessary regulations to jails, jails  
17 in general, especially since we found that it's  
18 the jails that have the highest commission rates  
19 and therefore the highest phone call rates.

20           And, you know -- so if the FCC decides  
21 to -- that a line needs to be drawn somewhere in  
22 terms of facility size, then I would argue against

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1 using labels such as prison or jail to determine  
2 where that line should be drawn because, you know,  
3 for the applicability of those regulations  
4 because, for example, Elias's jail, like he  
5 mentioned, is one of the largest in the country.  
6 It's larger than five whole prison systems. Like  
7 there are five state prison systems where all the  
8 prisons in -- all the incarcerated people under  
9 that state system are a smaller than in that one  
10 single jail. So in terms of economies of size and  
11 in terms of having to deal with one person versus  
12 many facilities or central administration and all  
13 those kinds of arguments, the label of jail or  
14 prison just isn't a very helpful guideline.

15 But I think in the end, the kind of  
16 facility that your loved one is held in just  
17 really shouldn't determine how much you have to  
18 pay for a phone call.

19 MODERATOR GUDE: Thank you very much.  
20 Kevin.

21 MR. LANDY: Hi. I'd like to thank the  
22 Commissioners of the FCC for inviting me to speak

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1 on this panel. You all may have noticed at the  
2 headquarters for the Immigration and Customs  
3 Enforcement Building is just across the street  
4 from the FCC building. For many of us at ICE, FCC  
5 is simply the agency with the nice courtyard where  
6 we can sit outside while we eat lunch. Our two  
7 agencies have very different missions so it's  
8 gratifying that what brings me here today is our  
9 shared interest in ensuring low-cost telephone  
10 services to detainees and not the delicious stir-  
11 fries at your cafeteria.

12           In my remarks today, I will primarily be  
13 describing the rates and services provided through  
14 our ICE Detainee Telephone Service provider, also  
15 known as DTS. Since 2010, these services have  
16 been provided by Talton Communications which was  
17 awarded the DTS contract after a full and open  
18 competition. Before getting into the details of  
19 the DTS contract, some background on the agency's  
20 unique detention system is necessary.

21           ICE detains approximately 34,000 at any  
22 given time in more than 200 facilities across the

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1 country. More than 400,000 people each year are  
2 booked into ICE custody for some length of time  
3 with an average length of stay of under a month.  
4 Most of the detention facilities that ICE uses are  
5 county jails which have a mix ICE detainees and  
6 non-ICE prisoners. However, most of our largest  
7 facilities are operated by private contractors and  
8 hold exclusively ICE detainees. We call the  
9 latter dedicated facilities.

10           Paid telephone services are offered by  
11 our DTS provider at 16 ICE detention facilities  
12 including almost all dedicated facilities. These  
13 facilities range in population from 300 to 1800  
14 and collectively house approximately 13,000  
15 detainees on average which represents about 40  
16 percent of our average population.

17           The DTS contract is provided at no cost  
18 to ICE with Talton assuming responsibility for  
19 installation and maintenance of all necessary  
20 hardware and network services. ICE receives no  
21 commission from Talton. Detainees are charged low  
22 rates of 10 cents per minute for domestic calls

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1 with no additional connection fees or ancillary  
2 charges. These rates are well below the upper  
3 limit imposed by FCC's recent order on inmate  
4 calling services. ICE's DTS rates are lower even  
5 than the Safe Harbor rates which the FCC presumes  
6 charges to be lawful.

7           In its order, the FCC accordingly  
8 applauded ICE's efforts to reduce rates to  
9 reasonable, affordable levels.

10           ICE detainees are also charged a uniform  
11 rate of 15 cents per minute for international  
12 calls to landlines and 35 cents per minute for  
13 international calls to mobile phones. Since the  
14 DTS contract was awarded, the number of calls per  
15 detainee and minutes per detainee has increased  
16 substantially.

17           In addition, the DTS contract provides  
18 for free telephone calling services to select  
19 numbers through a centralized pro bono platform  
20 which can be accessed at any detention facility  
21 regardless of whether it's a pay services or  
22 furnished by Talton or a different service

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1 provider. This pro bono platform enables  
2 detainees who dial in to place free calls to a  
3 number of entities including foreign consulates,  
4 immigration courts, and hotlines operated by ICE  
5 and by the DHS Office of Inspector General.

6           At many of the detention facilities  
7 where Talton is not the primary provider, Talton  
8 must pay per call compensation to ensure detainees  
9 have access to the pro bono platform. Those  
10 additional costs are not passed along to ICE or to  
11 the ICE detainees making the calls.

12           These low rates and the additional cost  
13 of maintaining the pro bono platform have not come  
14 at the cost of decreased service or security. The  
15 DTS contract provides for a number of security  
16 features important to the confinement setting  
17 including utilization of voice biometrics and  
18 remote live monitoring and recording capability  
19 for all non- privileged calls. With respect to  
20 service, Talton has recently increased the minimum  
21 number of telephones available to one telephone  
22 per every 10 detainees. It did so in response to

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1 a non-binding provision in our most recent  
2 detention standards which establish the 10 to 1  
3 ratio as a benchmark for optimal performance.

4 ICE has an interest in ensuring low  
5 phone rates and sufficient access for its  
6 detainees even at facilities where its DTS  
7 contractor is not offering paid telephone  
8 services. In fact, it is ICE policy incorporated  
9 in national detention standards that all detention  
10 facilities provide reasonable and equitable access  
11 for reasonably priced telephone services.

12 Since 2008, ICE detention standards have  
13 required that contracts for telephone services  
14 comply with all applicable state and federal  
15 regulations and that rates are based on rates and  
16 surcharges comparable to those charged to the  
17 general public. Any variations from public rates  
18 must reflect the actual costs associated with the  
19 provision of services in a detention setting. ICE  
20 conducts ongoing oversight to ensure facility  
21 compliance with those detention standards.  
22 However, it can be difficult for ICE to ensure

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1 that rates are comparable to those charged to the  
2 general public due to the complexity and variety  
3 of telephone rates and plans.

4 FCC's recent order therefore provides  
5 much needed clarity regarding the legal  
6 requirement that telephone rates, charges, and  
7 practices for detainees be just, reasonable, and  
8 fair. And our DTS contract demonstrates that all  
9 of the requirements in the FCC order can be met  
10 without any reduction in security or quality of  
11 services. Thank you.

12 MODERATOR GUDE: Thank you very much,  
13 Kevin. Next, Richard Smith.

14 MR. SMITH: Thank you and thank you,  
15 Chairman Wheeler, Commissioner Clyburn and  
16 Commissioner Rosenworcel for putting this panel  
17 together. It's a wonderful event in which we can  
18 all share ideas on how to get this project done.  
19 It's clear from the panels' debates that we've  
20 heard so far that we need a lot of work to get  
21 this done in the right way. We need to deal with  
22 commissions. We need to deal with security issues

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1 and we can't let these slip. And we need to deal  
2 with rates and fees. It's a hard project. That's  
3 why it's taken us nearly 10 years to get to the  
4 point that we're at today, but it can be done and  
5 I think it needs to get done right.

6 My name is Rick Smith and I represent  
7 Securus Technologies. I'm the Chief Executive  
8 Officer of the company. A little bit about  
9 Securus. We've been in business for 26 years. We  
10 serve almost one million out of the 2.3 million  
11 inmates with some form of the products that we  
12 have today. We have 1000 dedicated employees in  
13 46 states and the District of Columbia. We allow  
14 inmates to communicate with friends and family  
15 members in a safe and secure way. We have 650  
16 products, 650 products that we have, most of those  
17 dedicated to safety and security, and we help to  
18 protect society, inmates, corrections officers,  
19 judges, witnesses, and more by making sure that  
20 communications are well-intended and not used for  
21 the wrong purposes. It's what we do that keeps us  
22 all safe.

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1           At some point in the presentation and  
2 these discussions, I always get around to  
3 discussing where I think we stand in terms of a  
4 competitive company with competitive returns. And  
5 I've heard three words during the session so far.  
6 One is that rates are egregious. One is that  
7 rates are abusive, and the other one is that rates  
8 are predatory. I can look at our bottom line and  
9 compare that to other companies' bottom lines.  
10 Most of these companies you've heard of. And so a  
11 few statistics before we can use any of those  
12 words.

13           I looked at net income, kind of what you  
14 can get from public statements, as a percentage of  
15 profit. And here's the listing. Verizon was at  
16 14.3 percent; not bad. Time Warner was at 11.4  
17 percent, and I'm going in descending order now.  
18 AT&T, we've all heard of AT&T and what they do,  
19 they're at 10 percent. Century Link, think of that  
20 as U.S. West Embark, Century, pretty big company.  
21 I think the fourth largest local exchange carrier  
22 in the United States; they're at 5 percent. And

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1 now Securus brings up the rear at 1.4 percent. So  
2 Verizon makes roughly 10 times what I make on a  
3 comparable basis. Time Warner makes eight times  
4 what I make. AT&T makes seven times what I make.  
5 Century Link makes four times what I make. I'm  
6 not saying that any of those are bad. I'm just  
7 putting these things in the proper perspective in  
8 terms of what we make bottom line after all of our  
9 costs, and commissions does represent a  
10 significant portion of our costs is a relatively  
11 small number.

12           So we don't earn excessive profits. We  
13 don't earn excessive profits. We don't earn  
14 excessive profits. I said that three times for  
15 the egregious and abusive and predatory kinds of  
16 comments that come at us most of the time.

17           There are two charts that I have up here  
18 and these go directly to the panel's theme,  
19 understanding the provision of ICS in different  
20 facilities and understanding what the cost drivers  
21 are. The one on your left, that kind of vertical  
22 one, I know you can't see that but you have this

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1 data -- both these charts available to you. They  
2 were passed out. If you don't have them, there  
3 are copies over there. And we've been doing this  
4 for a lot of years meaning looking at contracts,  
5 putting together a model of what we can build for  
6 these things.

7           And there are 85 different variables  
8 that we've developed over the last 26 years, and  
9 we've priced out approximately 50,000 contracts  
10 over that period of time. So we have a relatively  
11 large depth and breadth of experience on the cost  
12 element side. And you can read these 85 items.  
13 There are 16 numerically and then when you add up  
14 all the bullets, there are a lot of things there.  
15 Our business is complicated. Many people that I  
16 talk to, some people who I think should know more  
17 about our business, think it's the, you know, walk  
18 down to the corner, put 10 cents in a pay  
19 telephone, hear it ding and make your call. It's  
20 a lot more complex than that and that complexity  
21 needs to be taken into consideration in terms of  
22 rates.

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1           So a few fun things to look at. We  
2 store information on all calls. We have four  
3 petabytes of storage. I'm an engineering guy so I  
4 kind of love to say words like that. What that's  
5 equivalent to is 80 million four-drawer filing  
6 cabinets worth of paper data. That's what it's  
7 equivalent to, circles the globe twice if you  
8 stack all of the filing cabinets end-to-end-to-  
9 end. So we store lots of stuff.

10           One hundred and fifty tool-carrying  
11 technicians a big portion of our cost; 250  
12 customer service people; 300 software development  
13 people; 80,000 phones -- they're all ours -- we  
14 have installed; 5,000 video phones -- they're all  
15 ours; 100 technical support people; 50 site  
16 administrators.

17           We complete 1.5 billion minutes of use  
18 per year of traffic from inmates. We pay roughly  
19 \$150 million dollars back to the facilities in  
20 terms of commissions. It's my cost. We have 25  
21 million lines of code that we have to maintain and  
22 keep up and build on. We've got 24 million feet

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1 of fiber, coax and copper cables that we've got to  
2 maintain.

3 We have cost of responding to subpoenas,  
4 warrants, testifying to chain of evidence  
5 requests. That happens every single week. That's  
6 what we do and all of those things and more need  
7 to be reflected in terms of final rates to an end  
8 user customer.

9 Now to the chart over on the right.  
10 This is a little more interesting. I've grouped  
11 these in terms of small, zero to 100; medium, 101  
12 to 1,000; this is ADP, average daily population;  
13 and then large, 1001 to 20,000; and then more than  
14 20,000. Think about it as underwear sizes, small,  
15 medium, large, extra large. You got to go beyond  
16 that, I can't help you.

17 So we have average rates. That exclude  
18 commissions. This is my cost, not other carriers'  
19 costs. It's my cost. It excludes commissions  
20 because that's the way the FCC likes to take a  
21 look at cost now. And ultimately, you see 28  
22 cents for really small facilities up to a really

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1 big facility, like 10 cents.

2           A really small facility for me, smallest  
3 facility I have is Gross Point Park, Michigan, has  
4 ADP of two with one telephone. That's my smallest  
5 facility. They're in the 0 to 100 block. My  
6 biggest facility is the Florida Department of  
7 Corrections. It's 87,000 or 89,000 inmates.

8           The next column starts to tell you that  
9 these numbers vary a lot and that's what the FCC  
10 has to look at. Look at the --we'll go to the 101  
11 to 1,000 for example. You can see it on the chart  
12 or that, even though the average is 17, the range  
13 for those facilities -- and there are lot of them;  
14 there are 511 that I have so it's a pretty big  
15 database -- goes from 8 cents a minute to 70 cents  
16 a minute, so pretty big range.

17           So rates per minute show significant  
18 variability. That needs -- and we all need to be  
19 careful of that, not to price prisons or jails out  
20 of the features that they need to do their jobs  
21 and protect us. Decisions on rates are life and  
22 death issues for victims, witnesses, inmates,

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1 officers, and society. I don't use that term  
2 lightly. I mean it because I've seen it in the  
3 hundreds of letters that we get from our  
4 facilities.

5 So, we need to be thoughtful and  
6 balanced and we need to have those kind of  
7 approaches to setting rates that take safety and  
8 security into consideration as well. Thank you.

9 MODERATOR GUDE: Thank you very much.  
10 Richard. Next and finally, Thomas Sweeney from  
11 Global Tel Link.

12 MR. SWEENEY: Thank you and thank the  
13 Commission for inviting me and thank you for  
14 putting me after Mr. Smith. That's a hard act to  
15 follow.

16 I have little to add to what he said. I  
17 think I have a number 86 feature and that would be  
18 the type of inmate, whether you, you know -- and  
19 I'll use the example I have a couple of counties  
20 in Florida where I live. You have what I call the  
21 city counties that have a lot of gang issues and  
22 very severe type of criminal. And a few miles

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1 down the road, you can have a beach community,  
2 same size jail, where they have DWIs and some  
3 public misconduct, totally different type. You've  
4 got more investigators. You have more work  
5 stations. You have more bandwidth, so there's --  
6 you know, we've talked about the differences  
7 between the departments of corrections facilities  
8 in counties, but there's really a difference  
9 between the county facilities, as Rick said.

10 I pride myself on being the old guy in  
11 the industry. We've talk so much. Somebody  
12 mentioned earlier the first inmate phones went in  
13 in the early 70's. I guarantee you it was the  
14 late 70's because I was there. I worked here in  
15 the Bell Atlantic region, was involved with -- at  
16 that time, they were coin phones in a lobby.  
17 Inmates would sign up for a call and they were  
18 walked from their jail out to the lobby, an  
19 officer would sign who they were, how long they  
20 talked, and who they talked to.

21 You fast forward to today. That's  
22 pretty much what our systems do. But along the

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1 way, I've seen unintended consequences. And I'm  
2 glad to see that the whole industry here, we're  
3 taking a step back and really studying what we  
4 need to do because the first phones that went in  
5 were live operator phones. That lasted about a  
6 month before the central offices and the call  
7 centers are yelling at me, Tom, you got to change  
8 that because the inmates are calling up and asking  
9 the operators what are you wearing, what time do  
10 you get off, those type of things.

11 We went to an automated operator and  
12 quickly, the facilities are saying now that they  
13 have free access and I don't listen to what they  
14 say, we're having, you know, security issues  
15 happen, victims are being harassed, witnesses are  
16 being harassed. So we came up with recording.  
17 The first recordings were reel-to-reel,  
18 Dictaphone, very expensive. As things have gone  
19 on, we've seen the unintended consequences.

20 So my request is just to continue what  
21 you're doing with making sure we study and make a  
22 good decision before make a final decision. Thank

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1 you.

2

3

4 MODERATOR GUDE: Well, thank you very  
5 much. Thank you, everyone. Obviously, we're going  
6 to start some questions and I'll kick this off by  
7 saying what we have heard and what we've seen  
8 through rates in different facilities and  
9 different places is rates as low as -- I believe  
10 we keep getting back to New York being somewhere  
11 around 5 cents a minute and from there going up.  
12 We've seen, Rick, from -- on your chart, your cost  
13 information by size of facility and other things.

14 What I'm trying to understand and  
15 reconcile is at the ICE facilities, was it 10  
16 cents a minute? They seem to be able to provide  
17 adequate security. They are very pleased with the  
18 security. Clearly, they believe their systems are  
19 absolutely what they need to provide security to  
20 the public. New York seems very happy at 5 cents  
21 a minute, able to do what they are doing.

22 The question that we have is what makes

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1 up the difference between such low rates at  
2 certain facilities providing adequate security and  
3 in other places rates that are significantly  
4 higher? Again, leave out the issue of  
5 commissions; we can circle back to that. But  
6 absent commissions, what drives those additional  
7 costs that require significantly higher rates to  
8 recover those costs -- to you Rick and then to  
9 anyone else. I apologize.

10 MR. SMITH: You know, on the chart on  
11 the right-hand side, we -- you know, our biggest  
12 facility is 87,000 to 89,000 and for both of  
13 those, I think you're talking about significantly  
14 more ADP; if you put all the ICE facilities  
15 together, significantly more ADP. But if you look  
16 at the range -- don't look at the 10 cents, look  
17 at the range. That just happens to be the  
18 average. We go down to as low as 7 cents. So in  
19 my mind, you know, a 5-cent facility or a 7-cent  
20 facility, either one of those is a great rate.

21 I think the way you go from my 7 cents,  
22 the low end of the range all the way up to 16

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1 cents, the way you go up from 7 cents to 5 cents  
2 is just more volume, more concentrated equipment,  
3 better use of fixed assets, better use of people.  
4 Those bigger facilities normally have a team of  
5 our associates on site all of the time, not  
6 assigned to anyone else, and you can make really  
7 good use of those people versus you're serving  
8 someplace in North Dakota where it may take a  
9 technician four or five hours to drive to the  
10 facility before they can put in any productive  
11 time.

12           So I think it's just economies of scale  
13 going from my averages of 15 to 18 cents or from 7  
14 cents to 5 cents. But I think, you know,  
15 hopefully, the FCC would be thrilled if on big  
16 facilities we could average somewhere between 5  
17 and 7 cents excluding commission costs.

18           So the short answer -- that's the long  
19 answer. The short answer is I think it's just  
20 economies of scale. The bigger the facility, the  
21 lower the cost as long as you set commissions off  
22 to the side.

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1           MODERATOR GUDE: Okay. So I'm just  
2 trying to get clarity on this. Then that does  
3 suggest size of facility makes a difference --

4           MR. SMITH: Yes.

5           MODERATOR GUDE: -- in terms of cost.

6           MR. SMITH: It absolutely does.

7           MODERATOR GUDE: Okay.

8           MR. SMITH: Now let me go on further.  
9 I've represented stuff there that's tiered. I  
10 hate tiering. I would never -- if I were you, I  
11 would never want to go to a tiering structure  
12 because of all the administrative problems  
13 associated with that, and which means that I truly  
14 don't believe any facilities would be not served.  
15 I think we, as an industry, would figure out a way  
16 to service them all in some way.

17           But the administrative ease of having  
18 one rate like we did on the interstate side -- we  
19 could have tiered on the interstate side in the  
20 interim rates and we didn't. We implemented that.  
21 The price gap on the low end for the prepaid is 21  
22 cents and we're at 17 cents. No facility is above

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1 the Commission price gap of 21 cents, so we  
2 average 17. And I'm not a fan of tiering just  
3 because the administration because here's what I  
4 would tell you all to do, and I'll tell you how  
5 we'd look at the loopholes immediately.

6 We would go to a big facility like  
7 Florida. If you did, for example, an ADP or a  
8 minute of use kind of a tiering, we'd go to the  
9 big facilities and say instead of one contract,  
10 we're going to have 34, one per facility because  
11 they're different, they have different  
12 characteristics, they're in different parts of the  
13 state so we migrate up to a higher rate. Within  
14 the facilities, I'd start to look at booking areas  
15 versus detention areas versus the women's area and  
16 the men's area.

17 So we, as business people, are great in  
18 terms of understanding the rules and, you know,  
19 most people use the term "game" as like its  
20 negative or illegal. I just view it as smart  
21 business people will migrate to ways that will  
22 allow them to make more money. So what I would

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1 tell you thinking about only Securus, come up with  
2 1,000 tiers and that would be great from my  
3 perspective. But from sitting in your shoes, I  
4 would say I need to keep this simple so I don't  
5 get the guys and ladies to game it, so that's why  
6 a single uniform rate, interstate-intrastate, both  
7 together, makes a lot of sense to me from an  
8 administrative perspective and I truly believe  
9 after we stop the complaining, we can figure out a  
10 way to make that kind of a structure work.

11           MODERATOR GUDE: Tom, so I'm not going  
12 to let you off the hook.

13           MR SWEENEY: Thanks, hard to expand on  
14 that. Personally, I think to postalize it -- we  
15 call postalize rates -- is at least easier to  
16 explain to called parties, officers and inmates.

17           To answer your initial question of  
18 what's the difference, it was mentioned earlier,  
19 that (inaudible) New York, it's not really true.  
20 UNISYS has a contract. We're a subcontractor so  
21 not a personal knowledge of what's going on there.  
22 I do caution that -- I do know there is some

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1 grumbling through different trade shows that they  
2 would like to have some technology they couldn't  
3 get because they don't have commission to give the  
4 dollars away. I think that will come up in the  
5 next RFP.

6           So as I had mentioned earlier, be  
7 careful of your unintended consequences. When you  
8 drop to a floor -- I think you mentioned it  
9 before, someone on the panel -- what's the  
10 motivation for bringing new technology in there.  
11 There will be service. We'll all do a good job.  
12 In this market, I've said from the very beginning,  
13 service is pass/fail. If you don't provide good  
14 service, you're not -- no matter what commission  
15 you offer, you're not going to get the business.  
16 So I agree with they'll all be serviced. But we  
17 have 2200 individual facilities. I guarantee you  
18 there are 2200 ways they're all set up.

19           MODERATOR ENGLENDOW: Mr. Diggins would  
20 you like to provide the counterpoint?

21           MR. DIGGINS: Absolutely. I  
22 respectfully disagree with Mr. Smith in regards to

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1 the tiering option from the jail administrator's  
2 perspective. I believe that our costs are not the  
3 same from small to medium to large jails and those  
4 costs including running the inmate calling systems  
5 are vastly different when you're talking about a  
6 6-bed facility in Kettering, Ohio. It's not the  
7 same as a 2300-bed jail in Denver, Colorado or a  
8 21,000 bed capacity system as you have in LA  
9 County, and so the economies of scale on the  
10 return on the investment for the inmate calling  
11 system obviously can't be paid back the same for  
12 the same technology. We all want to have inmate  
13 calling systems which record, which we can garner  
14 data from, which we can provide to law  
15 enforcement.

16           And so for us, there is no way that you  
17 can truthfully say from our end that a flat rate  
18 across the board is palatable. And although it  
19 may be easier for the providers when it comes to  
20 the way that they have to run their business; for  
21 us, it does not make sense. And I can tell you  
22 that in speaking to jail administrators in those

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1 small, medium, large and even mega jail systems,  
2 all of who I know one or more of each, that they  
3 would prefer to have a tiered system when it comes  
4 to any rate structure which may be implemented for  
5 intrastate calls.

6 MODERATOR GUDE: I want to just follow-  
7 up a little bit on that. IN the Senator Stein  
8 that what I'm hearing from Mr. Smith is the ease  
9 would allow effectively averaging of rates across  
10 different cost structures. Did I characterize  
11 that correctly?

12 MR. SMITH: Yes. And if I could just  
13 expand on my answer, I don't think I'd have a  
14 conflict with Chief Diggins. If you set the price  
15 cap rate high enough, it would allow -- and the  
16 market would take care of ultimately lower rates.  
17 If Denver was kind of a little higher than  
18 average, if you set the rate high enough, we'd be  
19 able to float it down so that we'd be able to  
20 provide all of the enhancements that Chief Diggins  
21 would need for bigger facilities. It would float  
22 down because the market push it down in terms of

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1 lower rates, higher -- to the highest ADP or the  
2 highest MOU facility.

3 So I'm not saying one rate for every  
4 facility in the United States. I'm saying set a  
5 cap and as long as it's high enough, trust the  
6 market to force it down to suit all the size  
7 facility needs. I don't know if that clarified it  
8 all.

9 MODERATOR GUDE: Okay. I'm going to let  
10 you follow-up -- if you had any --

11 MR. DIGGINS: No.

12 MODERATOR GUDE: -- comments beyond  
13 that.

14 MR. DIGGINS: I think Mr. Smith cleared  
15 it up.

16 MODERATOR GUDE: Okay. Thank you. Did  
17 you have --

18 MODERATOR BAKER: Well, yeah, I guess  
19 I'd like to follow-up to that. So you're saying  
20 that you set the rate cap high enough and even  
21 though the cost may be lower at prisons, they  
22 should pay the higher rates anyway?

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1           MR. SMITH: No. The market would take  
2 care of -- in the bidding process, the RFP  
3 process, the market would take care of bidding  
4 that particular contract lower. At least that's  
5 the way that we see it working. The reason why my  
6 bigger facilities have lower prices, which is what  
7 is really reflected here, lower prices, lower  
8 costs, is that we bid it down lower. We do not  
9 have -- for example, when the FCC set the  
10 interstate rate for us, because we're mostly  
11 prepared, to 21 cents, we had no -- very few  
12 facilities at 21 cents. Most were below that. We  
13 actually average 17.

14           So even though we could have went to 21  
15 cents for them -- and we actually approached some  
16 facilities and said, "The price cap's 21, you're  
17 at 18; do you want to go to 21?" Their response,  
18 which I think is the proper response is no, we  
19 want to have lower rates where we are, as low --  
20 and you know, we also approached one of our bigger  
21 contractors, Missouri, and asked them -- they were  
22 at a 7 cent minute rate -- and ask them, you know,

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1 you have movement to increase that. They weren't  
2 interested in that. So they do care, because I  
3 think it matters to them, about lower rates. So I  
4 think the market would drive rates lower no matter  
5 what the price cap is.

6 Sure, there are some facilities,  
7 especially lower ones that would hang around at  
8 the price cap level, but in my mind, set the price  
9 cap high enough, let the market take care of lower  
10 rates.

11 And kind of the fly in that ointment is  
12 this, is commissions because you don't want to  
13 have commissions driving rates higher just for the  
14 sake of having rates higher and the highest  
15 possible commissions. So that's why in my opening  
16 comments I said commissions are a big deal. It's  
17 a very big deal for the facilities. It's a very  
18 big deal for us because we're kind of like the tax  
19 collector in terms of commissions. It's a very  
20 big deal for the FCC and the states. And I think  
21 that has to be dealt with, not eliminated but  
22 dealt with in a way so that it doesn't harm the

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1 facilities.

2           And that's tough. That's why I think  
3 this problem has been with us for 10 years. It's  
4 just a tough problem to solve unless you just x  
5 people out, and I don't think we ought to x anyone  
6 out of this process. I think we ought to let  
7 everyone have their piece and provide a lot of  
8 good data to the FCC and together, I think we  
9 ought to be able to -- maybe not all be thrilled  
10 about the outcome but at least be okay with the  
11 outcome.

12           MR. BAKER: I'd like to follow-up on  
13 that. We just mentioned rates. What do you think  
14 about a comprehensive approach that includes rates  
15 and fees and single-payment services? I mean  
16 they're all part of one mechanism.

17           MR. SMITH: I'm absolutely fine with  
18 that. You know, some companies have migrated to  
19 more fees and less in rate, like rate per minute.  
20 And some companies have migrated to put everything  
21 in rate per minute. I think that needs to be  
22 addressed. I think you're right on. I think

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1 that's something that needs to be done.

2 MR. BAKER: Okay.

3 MODERATOR ENGLEDDOW: Just moving a  
4 little bit. If we do all these wonderful reforms  
5 that we're speaking about, do any of our panelists  
6 have opinions on appropriate transition periods to  
7 enact those reforms maybe from the facility side,  
8 the provider side, the advocate side, flash cut,  
9 phase in over three years, five years, provide  
10 some suggestions?

11 MR. DIGGINS: Absolutely. The fact of  
12 the matter is the majority of the sheriffs and  
13 jail administrators who are receiving these funds  
14 into inmate welfare accounts are using them for  
15 the good of those inmates. Twenty years ago when  
16 these services, these -- the technology was not  
17 the same and perhaps the rate of return for those  
18 funds was not the same. We didn't have programs  
19 like mental health transition units inside of a  
20 jail where someone with an AXIS-1 diagnosis who  
21 has a bipolar mental health disorder coupled with  
22 a drug addiction is getting help while they're in

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1 our custody. We didn't have programs like that,  
2 like recovery in a secure environment where  
3 someone who has an addiction to drugs can get that  
4 recovery while they're in our custody. And so  
5 today those programs exist and if there was a  
6 flash cut to say that they no longer could be  
7 funded, then I would say that that would increase  
8 recidivism rather than reduce it because those  
9 folks will come back to our communities possibly  
10 even worse than when they came to us and none of  
11 us want that. We want to return them back to the  
12 community better than when they came and so that's  
13 why those programs are in place.

14 I would say that an appropriate response  
15 to that would be to let the contracts run out in a  
16 three to five-year period and during that time, if  
17 those contracts began to expire, that they be  
18 renewed under these new guidelines. But to allow  
19 those counties, those departments to let those  
20 contracts run their course and to start them anew  
21 would allow them to prepare for any eventual  
22 change.

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1                   MR. FRIEDMAN: And I understand that  
2 eliminating commissions or reducing rates  
3 significantly would pose a hardship for  
4 correctional facilities that have come to rely on  
5 the commission payments they get to fund these  
6 worthy programs. But prisoners' families have  
7 been suffering hardships for decades, and  
8 correctional facilities and service providers have  
9 been on notice that these are issues that need to  
10 be addressed for at least the past 10 years that  
11 the Wright petition has been pending and certainly  
12 more recently, at least a year since roughly the  
13 Commission introduced its order on rate caps and  
14 reforms of the prison phone industry.

15                   So this is not something that has been  
16 done overnight. This is something that has been  
17 done overnight. This is something that has been  
18 done over a decade long period, and I think any  
19 period of transition needs to be as minimal as  
20 possible to ensure that reasonable rates,  
21 reasonable fair rates are enacted across the board  
22 for all facilities, intrastate and interstate and

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1 that's what justice requires.

2           One other point on the fact that the  
3 commission payments are funding these programs  
4 such as mental health and substance abuse  
5 treatment, those are inherent programs that need  
6 to be funded through public funds. Prisoners'  
7 families who overwhelmingly pay the commissions  
8 should not be the people who pay for these types  
9 of programs alone. This is a public service.  
10 Jails provide a public service for the public good  
11 and the public needs to fund it. So to the extent  
12 that commission payments are used for these worthy  
13 programs, that's great. But prisoners' families  
14 are not the ones who should be footing the bill as  
15 they have done for the past several decades.

16           MODERATOR GUDE: Elias, a response to  
17 that, please?

18           MR. DIGGINS: Yes. Those funds are not  
19 the only source for those programs. They assist  
20 in us providing those programs but there are  
21 literally tens of hundreds of programs which  
22 inmates are involved in. Those programs that are

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1 funded by these inmate welfare funds are a portion  
2 of that.

3           There are lots of other things that jail  
4 administrators do inside of the facilities which  
5 come from other sources. And so I don't want to  
6 paint the picture that is the only source for  
7 this. If it was not available with the  
8 supplemental for these, then the burden would be  
9 on all of the taxpayers in addition to what they  
10 already incur for those costs.

11           All of our money comes from tax revenue  
12 for each county. The sheriff's departments are  
13 not self sufficient. We are run by county  
14 government which all of you know is based on tax  
15 revenue.

16           And so everything that we do, we are  
17 very responsible for when it comes to the revenue  
18 that we receive from our county governments, and  
19 any additional monies that we receive help us to  
20 better prepare the inmates as they are released  
21 back into society.

22           MS. KAJSTURA: Sure, I just noticed

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1 we're kind of getting caught up in what I think  
2 might be a false dichotomy in terms of cutting  
3 these prices and therefore losing revenue. And I  
4 think this kind of goes to Mr. Smith's comment  
5 before that, you know -- he says that Securus  
6 doesn't make egregious profits but they might  
7 charge egregious prices. And that, I think, shows  
8 that there is something seriously broken with this  
9 system. And I think it's important to look to  
10 places like New York that have really cut their  
11 rates, what they've seen and which has been  
12 mentioned repeatedly through filing to the FCC  
13 and in the earlier panels today is that as the  
14 prices drop, the call volumes increase making up  
15 significant portions of the money and of the  
16 profits.

17 MR. FRIEDMANN: If I could just chime in  
18 briefly. On the charge that Securus provided, and  
19 I think it is important to note that these are  
20 Securus's costs, average rates excluding  
21 commissions. So obviously, the cost to the  
22 consumer is going to be much higher than the

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1 average cost of 15 to 18 cents per minute. So the  
2 commissions add a significant amount onto this.

3 I also note that this range, if you look  
4 at the range of rates, excluding commissions, it's  
5 from 7 cents a minute to a \$1.22 a minute. That  
6 means at some facilities, the cost to Securus of  
7 providing that call ranges from about \$1.40 for a  
8 20-minute call to over \$24.00 for a 20-minute call  
9 based on its own data, excluding commissions. So  
10 that vast range in there is something that needs  
11 to be considered.

12 Certainly, there might be differences in  
13 providing services, small versus large facilities,  
14 but when the cost to Securus for a 20-minute call  
15 is \$24.00, then I think questions need to be asked  
16 and answered.

17 MODERATOR ENGLENDOW: I just had a  
18 question, Mr. Smith, on this chart. Aleks just  
19 noted the two middle columns say "rates" and the  
20 yellow part down at the bottom refers to "costs."  
21 Just --

22 MR. SMITH: I used them interchangeable.

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1 As part of my cost, I have a reasonable rate of  
2 return, weighted average cost to capital cost of  
3 equity cost. I go through all of that when I  
4 determine those.

5 MODERATOR ENGLDOW: Okay, thank you.

6 MR. SMITH: You're welcome.

7 MODERATOR GUDE: Darrell.

8 MODERATOR BAKER: Mr. Smith and Mr.  
9 Sweeney, I think I heard you correctly in that you  
10 both agree that there needs to be a comprehensive  
11 approach that looks at rates, fees and single  
12 payment services. Would that be correct that you  
13 all agree with that?

14 MR. SMITH: Yes.

15 MODERATOR BAKER: Okay. What then do  
16 you think is -- do you see as the ICS providers'  
17 obligation with respect to making cost data  
18 available to regulators to accomplish that  
19 purpose? What level of transparency should there  
20 be?

21 MR. SMITH: Darrell, we provided our  
22 first cost study. We call it kind of the woods

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1 (ph) cost study and we spearheaded that as part of  
2 the industry and we provided that to the FCC back  
3 in 2008-2009 timeframe so we gave cost data then.  
4 It was, you know, a relatively high-level study  
5 but it was done by someone on the outside of the  
6 company. We provided a more detailed analysis  
7 2012-2013 and that was a name that begins with  
8 "S". We used that consultant and I can't  
9 pronounce it but we provided data then.

10 We're presently doing what I would call  
11 maybe good, better, the best cost study that we've  
12 ever done. We're using -- first of all, its' the  
13 most expensive cost study we've ever done. It  
14 will cost us about \$400,000.00. We will submit it  
15 to the FCC on July 17th. We're working really  
16 hard to meet their original date. We're trying to  
17 provide everything that the FCC put out in terms  
18 of requirements on the cost study and so that  
19 should be available on the 17th.

20 There will always be some areas that  
21 aware blacked out but we're going to try to  
22 minimize that this time so we can be as

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1 transparent as we possibly can. It'll be, you  
2 know, rates per minute. It'll be the fees that we  
3 charge. It'll be the cost base of the fees that  
4 we charge. So that will be our most significant  
5 effort done by what I'd call probably the best  
6 accounting/economic analysis firm that we know of  
7 in the industry, FTI consulting. And like I said,  
8 that should be available shortly.

9 I think -- when you see it, I think  
10 you'll really -- you may not agree with it but I  
11 think you'll really like it. But there are  
12 numbers that are consistent with -- not exactly  
13 because this -- note, this is kind of like our  
14 marketing database. They use kind the account  
15 database, quote, the real numbers and so they'll  
16 be close to all of the numbers there in that first  
17 -- or the first column over from ADP.

18 I think -- my prediction is you'll at it  
19 and you'll say, "This is really pretty good."  
20 Hopefully, that's what you'll say.

21 MR. BAKER: Will you make that economist  
22 available for questioning and for discovery?

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1 MR. SMITH: Yes, yes. That's --

2 MR. BAKER: Okay.

3 MR. SMITH: -- that will be part of  
4 their work and they've done multiple -- they have  
5 a history of doing cost studies so, you know,  
6 doing that before the FCC and states is not unique  
7 for them.

8 MR. BAKER: Okay.

9 MR. SMITH: And I know you're a tough  
10 guy to please but we're going to try to please  
11 you.

12 MR. BAKER: Thank you.

13 MR. SMITH: You're welcome.

14 MR SWEENEY: The difference between the  
15 CEO and the Salves VP is -- I don't have all those  
16 figures at my fingertips -- difference between CEO  
17 math and sales math but understand that in the  
18 past, although we -- you know, we have contracts  
19 for our costs and things, we didn't keep that. We  
20 weren't required to so I think we're in the same  
21 position. We are now looking at internally of  
22 people doing cost analysis and we will provide the

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1 same thing.

2           MODERATOR ENGLENDOW: Kevin, just from  
3 ICE, a question. We haven't heard much about  
4 international rates on our panels today, and  
5 hopefully just you could shed some light, fill in  
6 a little bit of a whole for us. Can you discuss  
7 the rates that ICE has for international calling  
8 and your opinion, if you can provide it, on  
9 whether the Commission should regulate those  
10 international rates?

11           MR. LANDY: Sure. Because of the nature  
12 of our population, of course, rates for  
13 international telephone calls is incredibly  
14 important, both that the rates be reasonable but  
15 also that we can present the rate structure to  
16 detainees in a way that is uniform and simple to  
17 understand. Currently, ICE detainees are charged  
18 a uniform rate of 15 cents -- I mentioned this  
19 earlier -- per minute for direct connections to  
20 landlines to any country and 35 cents for  
21 connections to mobile phones.

22           As a point of comparison, I just last

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1 night looked up what I would be paying on my own  
2 phone plan and also the competing provider for  
3 where I live, having even -- notwithstanding the  
4 monthly rate that I pay for that phone service,  
5 looking at the countries where we have the  
6 greatest number of detainees, Guatemala, Costa  
7 Rica, Honduras and El Salvador, the international  
8 rates that I would be paying were higher for  
9 direct calls to landlines and for many other  
10 countries where we have detainees, quite a bit  
11 higher, the rates that I'd be calling if I didn't  
12 have an international plan for which I'd be paying  
13 an extra \$20.00 a month.

14           So far this fiscal year, we have  
15 detained people from 200 different countries and  
16 that number will continue to grow. And in our  
17 prior contract, the rate structure was a list of  
18 250 countries and 250 rates, and there is no -- I  
19 don't -- I think it's hard to guarantee that  
20 detainees at every housing unit in all of our  
21 facilities are going to understand what the rates  
22 are going to be when they place that call. So

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1 having that uniformity is really important.

2 I think anyone who's an immigrant in  
3 this country, regardless of whether or not they're  
4 in ICE custody, if they find themselves in  
5 custody, obviously international calls could be  
6 very important to them. For us in particular, for  
7 many of our detainees, all of their family members  
8 and loved ones are in their home countries.  
9 Maintaining detainees' morale, allowing them to  
10 maintain that relationship is incredibly  
11 important. Even from a pragmatic perspective, a  
12 number of our detainees are aware that they're  
13 going to be removed back to their home countries  
14 and need to make appropriate arrangements for  
15 their departure. So that's also a humanitarian  
16 perspective but from the agency's perspective,  
17 it's pragmatic as well. So low rates, uniform  
18 rates, and I can't make recommendations to the FCC  
19 but those are factors that are important to us.

20 MODERATOR GUDE: To follow-up on that  
21 just to make sure, those international calls have  
22 all of your security bells and whistles associated

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1 with those as well, right?

2 MR. LANDY: Yes.

3 MODERATOR GUDE: Okay. As we're running  
4 towards the end, I just wanted to give everyone on  
5 the panel an opportunity. Many of you or I think  
6 most of you who have been able to sit through the  
7 other two panels heard comments on what the  
8 impacts are or have been or have not been with  
9 respect to intrastate services in sort of post the  
10 FCC's interstate rules that came out, the interim  
11 rules that came out last year and also the second  
12 panel which was focused on ancillary charges. I  
13 wanted to give you all an opportunity to have any  
14 comments, share your thoughts, if there was  
15 anything in there you felt you disagreed with,  
16 agreed with, had other thoughts on, give you all  
17 the opportunity.

18 MR. DIGGINS: I9'll jump in.

19 MODERATOR GUDE: Please.

20 MR. DIGGINS: First of all, I think I  
21 didn't -- I forgot to thank the FCC for allowing  
22 law enforcement to be at the table. Being the

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1 only law enforcement officer who has been a part  
2 of these panels has been an honor and we are  
3 partners in this conversation and hope to stay at  
4 the table to have a fair, just, and reasonable  
5 response to this issue which is very important to  
6 us.

7           There was a comment made about prisons  
8 and jails being the same based upon the  
9 populations. I just want to clarify that that is  
10 not true. We are absolutely different. When you  
11 talk about a facility, a prison facility that has  
12 2200 inmates, generally they're there for a very  
13 long time; some of them for a short stint for 5 to  
14 10 years; some of them may be there for the rest  
15 of their lives. And so an inmate calling system  
16 in that regard is a little bit different than a  
17 facility of our size that may have 2200 beds but  
18 processes 37,000 people per year for whom each we  
19 have to set up a calling profile.

20           And so it's not an apples to apples  
21 comparison when it comes to prisons and jails. We  
22 hope to continue to make that argument not just

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1 here but in other venues. But the conversation  
2 regarding jails should come from jail folk and  
3 we're more than happy as an organization to  
4 continue to represent that.

5 MODERATOR GUDE: I can say we very much  
6 appreciate your coming here and we hope that you  
7 can continue to be involved. We appreciate that.  
8 Our efforts will be benefitted by that.

9 MR. DIGGINS: Thank you.

10 MODERATOR GUDE: Alex.

11 MR. FRIEDMANN: Thank you. Just a  
12 couple comments. I think it's important to  
13 realize that although HRDC advocates for prisoners  
14 and their families, you know, nobody wants to see  
15 rates so low that companies are not able to  
16 generate profit and maintain their services. You  
17 know, it doesn't benefit anybody if companies  
18 cannot meet the rates and they're doing below cost  
19 business and they go out of business and inmates  
20 can't make phone calls to their families.

21 So when we talk about having just, fair,  
22 and reasonable rates, that's exactly what we mean.

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1 We don't mean unfair rates that are unfair to the  
2 companies. We also don't mean rates that are so  
3 high that they're unfair to prisoners' families.  
4 There has to be a balance there. In order to have  
5 that balance, you do have to have the data. You  
6 have to have important cost data that allows you  
7 to find that balance between reasonable rates on  
8 both sides.

9           So Mr. Smith, when he discussed some of  
10 Securus's finances, you know, he pointed out that  
11 other companies have higher profit margins such as  
12 10 percent with AT&T or 14 percent with Verizon.  
13 The difference is if I'm doing business with a  
14 company and I don't like their profit margin, I'll  
15 just find another company. I don't like AT&T,  
16 I'll go to Verizon. If I don't go Verizon, I'll  
17 go with somebody else. I don't like my cell phone  
18 plan, I'll change it from T-Mobile to Boost. But  
19 people in prison and their families who  
20 overwhelmingly pay for the cost of their calls  
21 don't have that choice. They can't simply switch  
22 from one carrier to another because there are

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1 basically monopolies on prison and jail phone  
2 services once the company has the contract.

3           And although Securus might have a very  
4 low, say, 1.4 percent net profit, we still don't  
5 really know what that profit is because that data  
6 is not made publicly available in terms of how  
7 much they're actually making until that cost data  
8 is entered into the record.

9           One comment that was made by Mr. Smith  
10 was that the -- we should trust the market to  
11 force the prices down. In other words, if we just  
12 trust the competitive nature of the market, then  
13 things will resolve down to a certain level that's  
14 fair and just. But competition only works if the  
15 nature of the contracts is to benefit the  
16 consumers. So long as we have inmate service  
17 contracts for phone services that are based on the  
18 highest commission percentage rather than the  
19 lowest cost to the consumer, the competitive  
20 forces don't work because they're non-existent.  
21 Thank you.

22           MS. KAJSTURA: I actually wanted to

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1 reply to the comment about the size of the  
2 facility. So yeah, there are some facilities that  
3 have tremendous churn and annually about 12  
4 million people cycle through jails and, you know,  
5 that's a number that's problematic for many  
6 reasons. But there are states where -- I think  
7 Louisiana, over 50 percent of the population in  
8 jails is serving out their sentence. They're just  
9 happened to be placed inside of a jail instead of  
10 a prison. So just -- it just doesn't serve as a  
11 clear-cut line is all I was saying.

12 MR. LANDY: I would just like thank the  
13 FCC for all the tremendous work it's been doing in  
14 this area. I've spoken about our DTS contract  
15 where we have, obviously, greater control over  
16 rates and services. But in my capacity conducting  
17 -- or collaborating on detention reform  
18 initiatives, information is also incredibly  
19 important. And we have a lot of facilities where  
20 we don't have our DTS contract. There are jails  
21 and contract-operated facilities which are very  
22 important partners to us, and I don't want to

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1 suggest that, you know, I understand at all what  
2 the pressures are in their very different systems.

3 But the information that the FCC is  
4 currently collecting is going to be very helpful  
5 to us, because having more information about  
6 facilities that we use, it just allows us to  
7 better understand basically what we're paying for  
8 and what the situation of all of our detainees is.  
9 So thank you very much.

10 MODERATOR GUDE: Thank you. Rick.

11 MR. SMITH: A couple points. Inter  
12 equals intra, I've said that to the Commission  
13 before. I think that the rates ultimately and  
14 what you do, they should be very similar on the  
15 interstate state side and on the intrastate side.

16 I think commissions is the elephant in  
17 the room. It represents roughly 50 percent of our  
18 cost structure and we have built a model as an  
19 industry where the facilities that we serve rely  
20 on those commissions. And I don't think it's fair  
21 to pull that away without some kind of support  
22 mechanism in its place, whether that's a

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1 transition period or it's a cap on commissions but  
2 it isn't fair to the facilities that have  
3 participated in this process where we just kind  
4 of, you know, forget commissions and say it can't  
5 be done anymore. That's what we've done on the  
6 interstate side so far and it's -- I think it's  
7 worked to a great degree for us because it only  
8 represented 10 percent of total commissions. So  
9 you can kind of pull that down a little bit and  
10 facilities aren't gutted in terms of the  
11 commission number. But I think commissions is an  
12 issue that needs to be dealt with in the open, in  
13 an economic kind of way.

14 I absolutely agree with Alex Friedmann  
15 and I thought I make this part of my comments that  
16 -- and I didn't think I'd ever agree with you on  
17 anything -- but I do agree on the notion of  
18 competition works as long as you can kind of deal  
19 with commissions in some because that's the part  
20 of the equation that makes it not work, although  
21 where there are low commissions or capped  
22 commissions, I have seen many facilities, for the

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1 good of inmates and friends and family members,  
2 decide contracts based on who can provide -- and  
3 I'm sure you, too, have -- who can give me the  
4 lowest possible rate; you know, I care about  
5 commissions and you can give me 25 percent, but  
6 who -- the firm that can give me the lowest  
7 possible rate for inmates and friends and family  
8 members wins. And that's an okay model. We can  
9 participate in that model okay but it comes back  
10 to it is a very tough issue for you and for the  
11 states.

12 I think it should be dealt with on a,  
13 quote, a fair way. I love that term because you  
14 have to be fair to all the people who've built  
15 this business model over the last 20 years, and  
16 you got one tough job trying to do that.

17 MODERATOR GUDE: Thank you. Thomas, you  
18 have the last word.

19 MR SWEENEY: Yeah, just I echo what Mr.  
20 Friedmann said, fair and reasonable. I like that.  
21 And let's make sure we take our time and get to  
22 the place where it works for everyone.

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1           MODERATOR GUDE: All right. Thank you,  
2 everyone. This was a great panel. I think we got  
3 a lot out of this. I hope you all will continue  
4 to stay involved as the process continues. Your  
5 input is critical. Thank you.

6           (Applause.)

7           (Whereupon, off the record for a brief  
8 recess.)

9           MODERATOR ENGLEDDOW: (Inaudible) forms of  
10 communications in correctional settings beyond the  
11 traditional wireline telephone call.

12           And my name is Lynne Engledow. I'm  
13 Assistant Division Chief in the Pricing Policy  
14 Division of the Bureau and David Zesiger, Senior  
15 Counsel in the Division. We will just go  
16 alphabetically down the line and start with Mr.  
17 Byrne.

18           MR. BYRNE: Thank you. I want to thank  
19 the FCC for allowing me to be a part of this and  
20 talk about new technologies. And as this workshop  
21 is focused on inmate calling services and this  
22 panel is specifically targeted to new

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1 technologies, I'd like to focus my opening  
2 comments on a new solution to the problem of  
3 contraband cell phones that also provides enhanced  
4 telephone access to detainees and their families.

5           The first payphone was installed in  
6 Hartford, Connecticut in a bank in 1889. The  
7 first payphone in jail, as we heard earlier,  
8 probably in the 70's. Ironically, the same  
9 device, admittedly with very sophisticated back-  
10 end controls is still being used in prisons and  
11 jails around the world 125 years later. Yet when  
12 was the last time you personally used a pay phone?  
13 The reason for this are cell phones.

14           As many of you may be aware, contraband  
15 cell phones are a significant issue in prisons and  
16 jails across the country and indeed around the  
17 world. Over 15,000 were confiscated in California  
18 alone in 2012. In fact, Georgia Department of  
19 Corrections Commissioner Brian Owens has stated  
20 illegal cell phone use in Georgia prisons has  
21 developed to epidemic proportions and is now the  
22 system's greatest safety threat. There is no

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1 doubt that the use of unrestricted cell phones in  
2 prisons is a serious security risk and that some  
3 of it is for criminal use and criminal activity.

4           However, it has been shown that the vast  
5 majority of contraband cell phone use is by  
6 detainees seeking more frequent and affordable  
7 interaction with family and loved ones,  
8 interaction that is now severely restricted by the  
9 limited number and shared use of prison pay  
10 phones. We believe that contraband cell phones  
11 are a problem of both supply and demand. Due  
12 to the demand for the cell phones in prison, there  
13 is an active and highly lucrative pipeline of  
14 supply. Most prison administrations have focused  
15 on restricting the supply of contraband cell  
16 phones through detection, managed access jamming,  
17 and search. However, like the problem of drug  
18 smuggling, without addressing the demand for  
19 contraband, the problem will never be solved.

20           We have developed a solution called  
21 meshDetect which helps to reduce the demand for  
22 contraband cell phones by siphoning off the

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1 legitimate desire for more frequent telephone  
2 access between detainees and their loved ones.  
3 meshDetect is a secure prison cell phone solution  
4 that gives detainees highly customized cell phones  
5 with all the security and control features of  
6 prison payphones. This allows those detainees  
7 whose only desire is for legitimate, non-criminal  
8 contact with families to use wireless technology  
9 safely and securely. By siphoning off and co-  
10 opting this non-criminal wireless usage, we  
11 significantly reduce the overall demand for  
12 contraband cell phones and therefore the  
13 profitability for those smuggling these devices.  
14 Less financial reward for cell phone smugglers  
15 changes the risk-reward equation and makes it much  
16 less appealing given the high personal and  
17 professional risk for those who are caught  
18 smuggling in cell phones.

19 In addition to reducing the demand for  
20 and therefore the supply of contraband cell  
21 phones, enhanced access to telecommunication  
22 services has proven significant additional

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1 benefits of reducing recidivism, improving  
2 detainee behavior, and increasing officer safety.  
3 Eventually, all technology trends reach the prison  
4 walls. In fact, the Department of Justice  
5 recently mandated that the federal Bureau of  
6 Prison Halfway House detainees be given controlled  
7 access to cell phones to facilitate communication  
8 with potential employers and family. With the  
9 meshDetect, all deserving detainees can benefit  
10 from wireless technology safely and securely.  
11 Thank you.

12 MODERATOR ENGLENDOW: Mr. Gainsboro.

13 MR. GAINSBORO: Thank you. I just want  
14 to begin very briefly by saying that I think the  
15 FCC has done an excellent job in tackling a really  
16 tough problem and I want to thank the FCC for  
17 inviting me to speak today. So thank you, guys.  
18 Keep up the good work.

19 The inmate telephone provides an  
20 important and critical link to keep inmates in  
21 contact with their friends and families. The  
22 transition from freedom to confinement is a

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1 challenging one. Unfortunately, the same inmate  
2 phone is also used to threaten and harm the  
3 public. Documented cases of such crimes include  
4 threatening, intimidating, blackmailing and  
5 murdering crime victims as well as jurors,  
6 witnesses, informants, public servants and others.

7           One important and proven technology that  
8 has provided significant public safety protection  
9 for inmate calling systems is voice biometrics.  
10 This technology was first deployed in the  
11 corrections industry in the early 1990's and was  
12 referred to as pre-call validation. These systems  
13 required inmates to speak a specific pass phrase  
14 during an enrollment process that was then stored  
15 in a voice print database. In order for an inmate  
16 to place call, the inmate would have to enter a  
17 PIN and then say their specific pass phrase for  
18 their call to be released to the telephone  
19 network.

20           In 2007, a new continuous voice  
21 biometric identification technology referred to as  
22 CVI was first launched in the corrections

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1 industry. This technology developed originally  
2 for the U.S. Department of Defense eliminated the  
3 need for the inmate to say a specific pass phrase  
4 and simply required a non word- specific 45 second  
5 sample of inmate speech. A model of the inmate's  
6 voice was created and stored in a voice-matching  
7 database. The voice model was then subsequently  
8 compared to each phone call placed from the  
9 correctional facility.

10 CVI offered significant benefits over  
11 the earlier 1990's pass phrase validation  
12 technology because any unauthorized inmate  
13 entering the phone conversation at any time could  
14 be automatically identified as well.

15 Prior to the advent of CVI, the industry  
16 had no way to quantify the amount of PIN sharing  
17 and stealing that was going on in correctional  
18 facilities. As a result of the accuracy and  
19 capabilities of the newer CVI technology, a test  
20 was run on over 50 million inmate phone calls and  
21 included correctional agencies with as few as 75  
22 inmates all the way up to an agency that had more

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1 than 13,000 inmates. The test revealed that  
2 greater than one out of every 15 phone calls  
3 placed by inmates was either a PIN misused or a  
4 PIN abused phone call.

5           Once these calls could be automatically  
6 identified, call reviewers could spend their time  
7 just reviewing PIN abused calls. When inmates  
8 misuse or abuse PINs, there is a high correlation  
9 with criminal activities and correctional agency  
10 policy violations.

11           The future of CVI for protecting the  
12 public, inmates, and correctional staff for  
13 regular phone calls, video calling, Voice Over IP  
14 calling, and cellular phone calls is very  
15 promising. Under development is an entirely new  
16 generation of technology designed to further  
17 protect the public. These developments include a  
18 greater ability to zero in on the inmate phone  
19 calls that are most likely to be involved in  
20 criminal calling activities.

21           During recent beta tests of this new  
22 improved and expanded technology at the New

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1 Hampshire Department of Corrections, the system  
2 was able to identify within seconds a criminal  
3 phone call where one inmate ordered a hit on  
4 another inmate. As a result, the agency was able  
5 to have knowledge of the planned assault  
6 significantly before the assault took place. The  
7 same beta test system has identified hundreds of  
8 similar types of calls. These calls have included  
9 attempts to circumvent the justice system and  
10 other criminal actions. In another important  
11 safety- related detection, the system identified  
12 an inmate who was arranging with an outside party  
13 for drugs and other contraband to be smuggled into  
14 the facility. Correctional staff used the system's  
15 detection information to intercept the contraband  
16 and the co- conspirator was arrested.

17 As inmate phone rates decline, inmates  
18 will begin making more phone calls. The challenge  
19 for the correctional agency and the industry will  
20 be to find those calls where inmates are  
21 threatening or attempting to harm the public. Due  
22 to the fact that in excess of 20 percent of all

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1 inmate PINs are misused or abused and that these  
2 inappropriate uses are highly correlated with  
3 threats and harm to the public safety, it is in  
4 the greater public interest to have the cost of  
5 these technological safeguards be included in the  
6 cost of providing inmate phone service.

7           In closing, continuous voice  
8 identification is one technology that will  
9 continue to offer an economically feasible method  
10 of decreasing the risk of inmate calling to the  
11 public, other inmates, and correctional staff  
12 while still allowing the inmate to communicate  
13 with his friends and family.

14           MODERATOR ENGLENDOW: Mr. Gongaware.

15           MR. GONGAWARE: First, I'd like to thank  
16 the FCC for organizing and hosting this workshop,  
17 and I'd like to thank them for allowing me to  
18 talk.

19           My name is Grant Gongaware. I am the  
20 founding engineer at Telmate and currently  
21 Telmate's chief architect. I have been  
22 responsible for much of Telmate's software

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1 development, hardware planning, and networking  
2 design. I would like to spend a couple of minutes  
3 discussing Telmate's development and  
4 implementation of new technologies. Then I'd like  
5 to spend a few minutes discussing the challenges  
6 we have and anticipating the costs associated with  
7 those new technologies.

8           First, the development and  
9 implementation.: Telmate attributes most of its  
10 success to the engineering of new VOIP and  
11 broadband technologies and our freedom to  
12 introduce these to and compete in the

13           ICS marketplace. From a hardware  
14 perspective, we maintain three primary platforms:  
15 One, a VOIP phone system which provides telephony  
16 service; two, shared media stations which operate  
17 over broadband and wireless networks; and three,  
18 shared tablet computers which also operate over  
19 broadband and wireless networks. Of these, I  
20 think the media stations and the tablets offer the  
21 most potential.

22           When available, inmates can use shared

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1 stations and tablets to access what we refer to as  
2 either self-contained or supervised services.  
3 Self- contained services are one-sided. Those  
4 include games, streaming music, education, and law  
5 library tools, commissary ordering, and the Cloud  
6 storage needed to support these offerings.

7           Supervised services are multi-sided.  
8 Those include private text-based messaging  
9 systems, photo sharing, internet browsing and  
10 video visits. Obviously, supervised services  
11 require a higher level of security because inmates  
12 can use them to send unsolicited communications,  
13 and all supervised services therefore require  
14 manual review cues and automated biometrics. They  
15 also require filtering, logging, tracking,  
16 storage, searchability, and live access.

17           We offer new technologies through  
18 innovative self-contained and supervised broadband  
19 services. On the self-contained side, we are  
20 developing access points for digital goods like  
21 music albums, game upgrades and videos. We are  
22 leading the push to Deleon and implement education

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1 and e-learning tools. In fact, we are particularly  
2 excited about a pilot program at Oregon DOC for a  
3 learning lab. When complete, Oregon DOC inmates  
4 will enjoy \$270,000.00 in new computing equipment  
5 which will benefit inmates immediately. We are  
6 also offering Cloud storage solutions for storing  
7 music, contacts, games, and documents which will  
8 remain available to the inmate after their  
9 release.

10 On the supervised service side, we offer  
11 social media and video visitation services. Some  
12 of these services are cutting edge and push the  
13 comfortable limits of hardware and software.  
14 Those services are also making contact management  
15 particularly important. We are helping inmates  
16 safely access existing content managing services  
17 like Facebook, Yahoo, Google, and (Inaudible) and  
18 Yahoo address books so they can stay connected  
19 with friends and family.

20 This brings me to my second point.  
21 Telmate and the rest of the industry experience  
22 huge challenges in anticipating and funding costs

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1 associated with developing, implementing, and  
2 maintaining these new systems and services. I'll  
3 give three reasons: First, inmates find ways to  
4 misuse new product offerings adding hidden costs  
5 and increasing the cost of providing even the most  
6 basic services, for example, paperless commissary  
7 ordering. At some institutions, we offer  
8 paperless facilities where inmates can order  
9 commissary, submit other requests and grievances  
10 electronically. It sounds simple but inmates  
11 found a way to misuse the commissary ordering  
12 system as a communications back channel. We have  
13 since spent more time and resources adding  
14 safeguards to the commissary ordering system than  
15 we did building the original service itself just  
16 to prevent abuses.

17           The same is true about inmate calendars  
18 where calendars were being used as a back channel  
19 and for profile photos that we use in our social  
20 media program where rapidly-changing profile  
21 pictures were misused as a communication device.

22           These simple examples highlight how

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1 difficult and time-consuming and costly it is to  
2 engineer and innovate communication tools among  
3 inmate populations.

4           A second reason that we face  
5 difficulties funding often significant new  
6 technology costs are storage and maintenance costs  
7 for both self-contained and supervised services.  
8 We must maintain a record of these service  
9 offerings online often for years or decades which  
10 is expensive.

11           Finally, a third difficulty we face in  
12 anticipating changing costs of regulatory  
13 compliance. To date, Telmate has been successful  
14 in large part because it's able to design,  
15 implement, and deploy new and better products  
16 quickly. But while it's relatively small size and  
17 advanced innovative product offerings have allowed  
18 Telmate to compete successfully in the ICS market,  
19 complicated and changing regulatory systems  
20 jeopardize Telmate's ability to innovate. We fear  
21 that forcing more attention towards the back  
22 office will hinder our ability to innovate at the

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1 forefront at a time when breakthroughs in  
2 technologies are permitting market forces to  
3 improve the price and service of inmate  
4 communications.

5           For these reasons, the FCC should  
6 continue to let ICS providers innovate freely in  
7 the broadband space where innovation can most  
8 improve inmate lives and where market forces have  
9 encouraged companies like Telmate to introduce new  
10 technology at lower prices. Thank you.

11           MODERATOR ENGLENDOW: Thank you. Mr.  
12 Moore.

13           MR. MOORE: Thank you. I'd also like to  
14 thank the FCC for inviting us here.

15           And I'll talk a little bit about the  
16 evolution of inmate communications. And it's  
17 always been a balance between convenience,  
18 contact, and public safety starting with letters  
19 and face-to-face visits evolving to standard  
20 payphones that allowed an additional level of  
21 contact and convenience moving to coinless collect  
22 only phones when inmates were no longer allowed to

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1 have coins, but these were phones with no  
2 security.

3           And while it was focused early on in  
4 providing more contact and more convenience, each  
5 time we did that, as Mr. Gongaware said, it  
6 created potential security hold that had to be  
7 filled. Each time you offer something new, you  
8 have to take into account the ways in which it may  
9 be misused which is how we got to inmate calling  
10 systems with basic call controls, things like call  
11 supervision, selective recording, PINs, allowed  
12 call lists, investigative features, these were  
13 things that were a benefit to public safety and  
14 also security.

15           From there we moved to things like  
16 voicemail, voice biometrics, key word search,  
17 transcription. These were things that allowed  
18 both more contact. They improved inmate safety, I  
19 think as Mr. Gainsboro explained, in regards to  
20 the voice biometrics, an inmate trying to protect  
21 their PIN number and the way voice biometrics  
22 allows them to do that and from there, going to

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1 things like intelligence tools, data analytics,  
2 location-based services, geo- fencing and  
3 contraband cell phone control; again, focused on  
4 public safety to reel in the beast, to get things  
5 back under control for the products that we had  
6 deployed.

7           Where we see things going now: wall-  
8 mounted, multi-service kiosks. So we heard about  
9 the need for video calls for inmates with  
10 disabilities. We've seen a desire for video  
11 visitation, for other inmate services, for  
12 programs, for educational content.

13           One of the things that I want to point  
14 out is those are needs and those things are not  
15 something that is at a minimum cost to do the  
16 research and development. It is the inmate  
17 telephone providers that bear the cost of the  
18 development for the kiosk, to put that device on  
19 the wall, to do the -- to provide the additional  
20 bandwidth, to develop and do the software  
21 development research for the applications that go  
22 in that device, for the additional maintenance and

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1 support to support the device once it's on the  
2 wall.

3           And these are all a benefit to the  
4 incarcerated individual and to their friends and  
5 family. It's more contact, it's better contact  
6 the contact that you get from a video visit versus  
7 what you would get from a simple telephone call or  
8 an email. And while it is better contact, email  
9 can be an effective tool in that you can get more  
10 frequent contact perhaps at a lower cost.

11           Where we see the market going from there  
12 is to secure hand-held, multi-service devices as  
13 Mr. Gongaware said. You know, how do you then  
14 take that thing off the wall and put it in the  
15 hands of someone so they can use it at their  
16 convenience. So you again focus on more contact,  
17 more convenience. We believe that that would  
18 reduce recidivism if you can improve that contact.  
19 But it goes back to on one hand, while we want to  
20 do that, the other hand is how do you actually pay  
21 for that; how do you make that thing happen so  
22 that you can give that inmate that benefit. And

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1 there are a number of benefits to be had there.  
2 And so that's a thing that we continue to explore.  
3 Thank you.

4 MODERATOR ENGLEDDOW: I'll start off the  
5 questions and welcome any questions from the web  
6 or the room or Twitter.

7 Just curious about the RFP process or  
8 processes with the correctional facilities. Are  
9 you seeing requests for these types of services in  
10 the RFPs or is it more of you all educating  
11 correctional facilities as to your offerings? How  
12 well have they been embraced by the correctional  
13 institutions? Whoever wants to take that?

14 MR. MOORE: I would say it depends. You  
15 know, as we've talked about facilities are very  
16 different, their needs are very different, also  
17 their education and knowledge of what's available  
18 to them is very different. So you've got some  
19 customers that are at every trade show. They read  
20 technology magazines. They think about how could  
21 you take a thing that's in the consumer market and  
22 bring that into the inmate market. They consult

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1 with us about what is the best way to do that.  
2 You've got others that keep a more simple approach  
3 in regards to how they run a facility and may not  
4 be aware.

5           So I would say we've seen everything  
6 from very detailed specifications in an RFP to  
7 absolutely nothing and an approach of well just  
8 tell us everything that you could potentially  
9 provide.

10           MR. GAINSBORO: Yeah. I would add in my  
11 experience, similar to what Chris said, is that  
12 you have a range and specifically when people are  
13 dealing with serious issues and problems -- I can  
14 give you a recent example where we had a potential  
15 customer who was really -- wanted to provide debit  
16 calling to their inmates in general. And what  
17 happened was that funds were being put on but  
18 through extortion and other means like that, funds  
19 were -- you know, some large inmate would come to  
20 smaller inmate or whatever and use force. And  
21 what happened is that in two different cases, one  
22 particular case one of our agencies was aware of

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1 what we did and came to us and asked and actually  
2 added that to the RFP.

3 In another case, they were unaware of it  
4 and when they were made aware of it, all of a  
5 sudden, they said, "This can solve our problems  
6 and protect funds." And which in the context of  
7 what we've talked about today, this idea of  
8 protecting the inmate families as well as their  
9 funds and the inmates, I think, is where you see  
10 it. So the answer is both.

11 MR. BYRNE: I think for our particular  
12 solution, the cell phone is seen as a risk and so  
13 there is a lot of education and discussion around  
14 the security of the system and seeing the cell  
15 phone not as a risk but as a potential tool or  
16 reward and a way to enhance communication between  
17 detainees and prisoners. So I would say that it's  
18 more push than pull at this particular time for  
19 this solution.

20 MODERATOR ENGLENDOW: Okay. Anybody  
21 else?

22 MR. GONGAWARE: I would agree on -- for

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1 Telmate's tablets that those who are unfamiliar  
2 with it do also consider it a risk. But as they  
3 become familiar with it, there is more interest.

4           MODERATOR ZESIGER: Mr. Gongaware, you  
5 mentioned the challenges to funding these new  
6 technologies, developing them and maintaining  
7 them, fixing them when they get out and are  
8 misused in the marketplace. I wonder if we just  
9 go down the panel or whoever wants to address this  
10 question but maybe get some different opinions on  
11 how these things are funded. These all look  
12 bright and promising. I'm sure there are risks  
13 involved but we just -- I think it might be  
14 helpful to hear how you actually get these funded.

15           MR. GONGAWARE: You know, I don't know  
16 the details on how they're funded. I'm glad that  
17 they are funded. I love building them and  
18 Telmate, I think, has good opportunities to keep  
19 building these in most of our contracts that we  
20 service today.

21           MR. MOORE: From my standpoint, I mean  
22 if I understand your question, we fund them

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1 internally. There is not a grant that we get.  
2 There is not an external source of funds. It is  
3 for us. GTL has a budget for research and  
4 development, for engineering, for the staff. If  
5 we have to go to a third party to provide a  
6 particular service -- I think before Jay's company  
7 was acquired, it was a service that you could get  
8 from them. And so you may have to consult with a  
9 third party or contract with a third party to get  
10 that service. But again, I mean those are  
11 internal costs to us.

12           MR. BYRNE: For meshIP, this is -- we're  
13 a startup so it's all self-funded internal  
14 funding.

15           MR. GAINSBORO: In our particular  
16 situation, I'll tell you one quick little story.  
17 We knew there was a problem in the industry where  
18 inmates were communicating with other inmates even  
19 though they were separated between facilities.  
20 And it was a big problem. In fact, the Federal  
21 Bureau of Prisons felt that one of the riots that  
22 occurred back in the mid- 90's happened as a

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1 result of -- they were coordinated riots in about  
2 four or five facilities around the country, and  
3 they said if you could ever help us solve this  
4 problem, it would be wonderful. And so we kind of  
5 talked about it but it was very, very expensive in  
6 the mid-90's. And as we got smarter as a company  
7 in how to build technology like this, we  
8 eventually embarked on it, self -- self basically  
9 invested in it.

10           And then the challenge, and I think this  
11 would probably help the FCC a little bit was once  
12 we built it, everybody said, "Well, we don't think  
13 it's a real problem" or whatever. And so we ended  
14 up -- we put in hundreds of thousands of dollars  
15 and eventually, what we decided to do as a company  
16 was to give it away. And it wasn't totally like  
17 we were being altruistic. We felt we had invested  
18 the money and it could be beneficial to the  
19 industry. And actually, part of the technology  
20 you heard about today that I referred to was that  
21 technology.

22           So the answer to your question is that

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1 funding usually for an entrepreneurial startup or  
2 whatever is usually some entrepreneur has some  
3 creative means of doing it and finds the money,  
4 takes it from some other place and 24:23  
5 (inaudible).

6 MODERATOR ZESIGER: The flip side of the  
7 funding question then -- and again, my question  
8 was really about internal funding but also impact  
9 on end user rates, to what extent to expenditures  
10 made here impact end user rates, and so maybe just  
11 one more question, follow-up on that point. And  
12 then -- well, start with that.

13 MR. MOORE: You know, so if we have a  
14 thing that we've developed internally, it's  
15 something new and we have to recover the cost of  
16 that, then there may be a rate impact in the near  
17 term for that. If it's a thing that is specific  
18 to a particular opportunity and it is a service or  
19 feature that we have to get from a third party and  
20 we pay that third party for it and it's directly  
21 attributed to that opportunity, then yes, that  
22 could be a component of that rate as well. So --

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1 and that's an important point.

2           It's not that -- I know folks think  
3 about -- we've heard a lot about basic telephone  
4 service and making the call and it's recorded and  
5 that's what you've got. I think as Mr. Smith  
6 said, there is a lot more to it than that. You  
7 know, that's as basic as an FM radio in a car.  
8 There is so much more that goes into so when you  
9 layer in voice biometrics, you layer in geo-  
10 fencing, location-based services, some of these  
11 other things that are new and emerging  
12 technologies that require licensing from third  
13 parties to provide to keep that public safety but  
14 also to increase contact, those are things that  
15 would be a part of that rate.

16           MR. GAINSBORO: I think in general, most  
17 of us would allocate a certain percentage,  
18 relatively small compared to our overall, but a  
19 certain percentage of our annual expenditures to  
20 an R&D type of, you know -- does that answer your  
21 question?

22           MODERATOR ZESIGER: Sure. That's more

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1 the corporate overhead kind of aspect of it. One  
2 last follow-up question on the rate side, on the  
3 costs. Give us an idea of samples of the types of  
4 prices for these interesting new technologies you  
5 offer to end users?

6 MR. GONGAWARE: For Telmate, like our  
7 messaging service, I think, averages 25 cents a  
8 message which is a text message, like an average  
9 text and other interesting things. Photos are a  
10 little bit more. They're like averaging 26 cents.  
11 A video visit is -- well, a local video visit is  
12 almost always free which is interesting, but then  
13 we offer remote visits at a lot of our facilities  
14 and those average about 30 cents a minute for a  
15 remote video visit.

16 MR. BYRNE: For meshDetect, for the  
17 wireless calling, we can offer the permanent rate  
18 underneath the rate caps that you've stipulated  
19 for long distance. Unlike the traditional wall  
20 phones, it's a flat rate very similar to what  
21 you're used to with your personal cell phone. So  
22 the same permanent rate no matter whether you're

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1 calling across the street or across the country.  
2 And unique, I think, for this service vis-a-vis  
3 the payphone service is we don't charge any per  
4 call charge. We understand as you use your cell  
5 phone, your calls would drop occasionally. That's  
6 the nature of wireless. So we think it would be  
7 unfair to charge a per call upfront fee and then  
8 if that call drops, you're going to have to redial  
9 that call and take another hit at that. So the  
10 effective rate, it can, in many cases, be less  
11 expensive than what a prisoner would be paying on  
12 a traditional payphone.

13 MODERATOR ZESIGER: Great. I have a  
14 question from the web and they actually beat me to  
15 one that I was going to ask you about. We just  
16 had this news piece put in the record and it is  
17 about how Knox County, Tennessee is replacing in-  
18 person visits entirely rather than supplementing  
19 them with video visitations. So instead of even  
20 having the option for an in-person visit if you're  
21 able to get to the facility, you're required to do  
22 video visitation.

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1           Do you all have any opinions about that  
2 practice? Do steps need to be taken to guarantee  
3 that there is a balance between the accessibility  
4 of video visitation, particularly for, as our  
5 panelist Talila Lewis told us, hearing impaired  
6 folks? Is there a balance needed between that  
7 accessibility and the actual human connection to  
8 see your person in the flesh, any opinions on  
9 that?

10           MR. MOORE: From my standpoint, you  
11 know, we generally let the market and the customer  
12 drive what we do there. You know, we focus on  
13 filling a product need. We're not experts on the  
14 sociology of how inmates interact with families,  
15 so we kind of look to them and the Chief that was  
16 here earlier to give us guidance on what's working  
17 for them in that regard and then we react and  
18 evolve to that.

19           MR. GONGAWARE: Similar for Telmate.  
20 The facilities decide how they want to handle the  
21 visits. But in the case where they do have video  
22 visits, it's interesting that they can do more

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1 simultaneous visits at a time and they can have  
2 longer visit hours, early in the morning, later at  
3 night, you know, off the normal work hours which  
4 is, I think, beneficial to everyone.

5           MODERATOR ENGLENDOW: Okay. You have  
6 something else?

7           MODERATOR ZESIGER: Maybe just a follow-  
8 up question to the whole panel. On the impact of  
9 these technologies on inmate behavior, does it  
10 help in terms of security or safety internal to  
11 the jails?

12           UNIDENTIFIED SPEAKER: I would say both.  
13 I think that in some ways, they've helped; in some  
14 ways, they've hurt. We use the example of when,  
15 say, debit phone calling was first introduced, so  
16 when you went from collect only and that was the  
17 only way a call could go out to debit, inmates had  
18 funds, inmates had control of their calls, inmates  
19 had a PIN number that they would enter, and this  
20 is what Jay alluded to, I think it helped in that  
21 they had the ability to make more calls, to make  
22 calls to cell phones that they couldn't have done

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1 under collect because we didn't have collect  
2 billing arrangements. But what it did is it  
3 introduced a safety problem with the inmate in  
4 that they may be strong-armed to provide their PIN  
5 number to someone else so that person could use  
6 it. So it was both sides of it. It helped in one  
7 way; it hurt in another.

8           So then we look at technology to say  
9 what can we do to solve the hurtful part of that  
10 and then as we solve that, at some point, someone  
11 figures out another way and you continue to  
12 address the problems in that way.

13           MR. GAINSBORO: I can address that  
14 specifically. So when we go in -- and the process  
15 that happens with continuous voice biometrics is  
16 you go in and you do an enrollment. And normally,  
17 what happens is that you take your -- the  
18 enrollment people that go in are normally escorted  
19 by correctional officers. When our people go into  
20 a living unit, basically the first thing they say  
21 is that you now can have your funds protected. And  
22 prior to that, before this technology goes in,

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1 they know their funds are subject to abuse or  
2 misuse or whatever. And what happens is -- and  
3 its' funny that you mention Knox County and that  
4 example because Knox County happens to be one of  
5 our customers through Pay-Tel. And it turns out  
6 that they love the technology because they were  
7 having this problem and now they could identify  
8 which inmates were actually stealing or strong-  
9 arming other inmates' funds.

10 So the answer to your question is that  
11 the technology, when used appropriately, actually  
12 benefits significantly inmates and the inmates'  
13 families.

14 MR. BYRNE: I have a quick point on  
15 that. There's been study after study that's shown  
16 that more frequent contact with family reduces  
17 recidivism so the ability to use a cell phone,  
18 have a longer conversation because somebody's not  
19 waiting in line to use the phone after, you're  
20 restricted to 15 minutes because it is a shared  
21 use resource, will facilitate that improved  
22 contact. Also, by using a cell phone, you would

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1 be able to have privacy. Now I'm not talking  
2 secrecy because every call is recorded and can be  
3 monitored and listened to. But to have a little  
4 privacy, to be able to have a personal  
5 conversation with a loved one, talk about your  
6 health, talk about problems at home without, you  
7 know, everybody around you I think would also be  
8 very beneficial.

9           There was a prison in the UK called  
10 Lowden Grange where they had a huge problem with  
11 contraband cell phones and they installed --  
12 actually installed a phone in each cell. And what  
13 they found from installing a phone in each cell --  
14 they'd hardwired it, which is a very expensive way  
15 to go about this -- was that recidivism was  
16 reduced. There were fewer fights, less incidents  
17 of self-harming, and they even had fewer positive  
18 drug tests after making this change. So there is  
19 clear proof that increased communication does help  
20 with behavior and recidivism.

21           MODERATOR ENGLEDDOW: You have another  
22 one?

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1           MR. MOORE: And on that point, I would  
2 like to add one thing there and just one thing to  
3 point out, that while additional access or more  
4 access to those devices is of value, there is also  
5 a balance to how do you pay for those devices. In  
6 most instances, it's not the facility or the end  
7 user or the inmate that's actually buying the  
8 device that they're using to make that  
9 communication. So another part of that is what is  
10 the right way to get that thing paid for that you  
11 can put it into their hands.

12           MR. GONGAWARE: I wanted to mention that  
13 Oregon DOC did a study after Telmate installed its  
14 videophones which included visitation and  
15 messaging and paperless grievances. And violence  
16 was -- violent incidents were down significantly.  
17 I don't have the number with me. I can follow-up  
18 with that but their -- their did have a study on  
19 that.

20           MODERATOR ENGLEDDOW: Kind of following  
21 up, do you think that new -- the desire for new  
22 technologies is for -- because there is a problem

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1 that needs to be fixed and that technology is the  
2 way to fix it? Or is it decreased costs of the  
3 technologies? Or is it a combination of the both,  
4 or?

5 MR. MOORE: From our standpoint, it's  
6 definitely not reduced cost because deploying  
7 these things, it is additional cost. It's the  
8 cost to hire engineers. It's the cost to source  
9 third-party software. It's the cost to put these  
10 solutions together. So it's generally a business  
11 problem in the industry, for us at least, that  
12 drives this new technology or it may be an  
13 opportunity that we see. When I say a business  
14 problem, that doesn't mean a problem that the jail  
15 is having. It may be the problem is how do we  
16 create an environment that inmates can have more  
17 contact, or how do we create an environment that  
18 inmates can get more access to educational  
19 content. We've talked very little about wall-  
20 mounted kiosks or handheld devices that have that  
21 capability, but a lot of that comes from that  
22 business problem which is how do you educate

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1 offenders to help reduce recidivism, how do you  
2 get them more contact to help reduce recidivism,  
3 how do you get them a job skill to help reduce  
4 recidivism.

5 MR. GONGAWARE: I'm not sure about the  
6 level of desire for new technologies but we're  
7 definitely building lots of new technologies. I  
8 love building it. It's fun.

9 We do have requests from facilities.  
10 They want certain features. They want  
11 enhancements. And we have some of our own  
12 interesting ideas that we work on. So I don't  
13 know what the true source of all the desire is.

14 MR. GAINSBORO: I think I've always been  
15 personally very driven by solving people's  
16 problems, so I would say the vast majority of our  
17 -- the technology needs and stuff comes from, you  
18 know, people that are having really significant  
19 problems and they need them solved. So does that  
20 address your question?

21 MODERATOR ENGLENDOW: Yes, thank you.

22 MR. BYRNE: I think in our specific

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1 case, it's really about the problem that was --  
2 continues to grow and that's contraband cell  
3 phones. And as the phones get smaller and harder  
4 to find and more and more money is spent trying to  
5 detect them and take them out of the jail, how do  
6 you address the real demand. And if its' all  
7 crime-based conversations, then this makes no  
8 sense. But it's pretty clear that it's not  
9 because when they'll put in managed access jammers  
10 that eliminate the use of contraband cell phones,  
11 the use of the wall phones goes up. So if I was  
12 using that cell phone in order to have a  
13 conversation I didn't want monitored or recorded,  
14 I'm not going to go to the wall phone and use that  
15 vehicle. So it's clear that there's a demand for  
16 enhanced conversation and maybe lower rates as  
17 well.

18 MODERATOR ZESIGER: So, you all are the  
19 ones who are looking to the future and trying to  
20 push us all into the future in terms of new types  
21 of services and technologies for inmates and their  
22 friends and families, so you have a special kind

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1 of front row seat to the crystal ball, if you  
2 will, from your own perspectives of the future and  
3 what's next. It might be interesting for us to  
4 just hear from you, if you have any thoughts about  
5 where is all this headed? What's the next  
6 generation? What's the next big thing that you  
7 see coming?

8 MR. MOORE: For us, I think it's where I  
9 ended the evolution of inmate communications and  
10 it is the handheld device. So all of the things  
11 that are being developed in regards to  
12 applications to benefit the inmate, things like  
13 email, like educational content, job skills and  
14 other things, how do you then get that into an  
15 environment that they can use more readily. So --  
16 because we talked about if it's stuck on the wall,  
17 that may not be convenient. So how do you get it  
18 to a place that they can use it regularly at an  
19 affordable cost that benefits them.

20 MR. GONGAWARE: For friends and family,  
21 we're developing Smartphone apps and Tablet apps  
22 to make contact with inmates much more accessible,

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1 much easier. I can see that we'll continue  
2 improving those apps. I mean they're easy to  
3 update. We don't charge for these apps.

4           And then on the inmate side, I'm  
5 thinking a little further out there but I can see  
6 Cloud storage being important for them. People  
7 have personal digital goods out there that they  
8 need to have access to and music they bought,  
9 books they bought, and we need to provide a  
10 solution to get them in and out of the facility  
11 safely.

12           MR. GAINSBORO: You know, it's  
13 interesting you said "we're pushing." I don't  
14 feel like we're pushing. I think -- you know,  
15 just a distinction, I think we're being pulled  
16 because, you know, I've been in the industry for  
17 25 years, maybe more than these guys -- I don't  
18 know -- 25 years now and I've watched what  
19 happens. And what happens is we introduce new  
20 technology and it's to solve a problem, and then  
21 all of a sudden, what happens is that there's a  
22 new problem that evolves and it's like an arms

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1 race that continues to go back and forth.

2 I think specifically where we're focused  
3 in the future is the company really wants to  
4 automatically identify as quickly as possible and  
5 as economically as possible which calls are  
6 representing the greatest public risk. And I  
7 think without taking that into account, we really  
8 are doing, from my perspective, the public an  
9 injustice because to just simply look at this  
10 problem through well, we'll just give them new  
11 technology I think, personally, is somewhat  
12 irresponsible. AND I think we need -- that's an -  
13 - you know, we're dealing with an inmate  
14 population. We're not dealing with, you know --  
15 and granted, the vast majority of them are fine  
16 but that small percentage creates a lot of risk,  
17 and there's a lot of things you can point to in  
18 this country, you know, about examples of that.

19 So we're focused on how do we make  
20 inmate calling safer in the future and that's what  
21 we're doing.

22 MR. BYRNE: Without discounting the

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1 risk, it is a consumer market of a sort. These  
2 detainees will eventually be back out and  
3 hopefully better off having served their time.  
4 And so you need to give them the tools to continue  
5 to improve themselves, to educate themselves, to  
6 stay connected to family and society, look for  
7 jobs in an automated way as much as possible just  
8 like you see outside the prison walls. The  
9 technology does reach but the challenge is to make  
10 sure that it's used appropriately, properly and  
11 its manageable and monitorable but eventually,  
12 they will have devices like we all do.

13 MODERATOR ENGLEDDOW: I will give you all  
14 an opportunity to say any final words. If not, I  
15 think that is a good question to end on where  
16 we're going next, and if there is anything else  
17 anybody wants to take the opportunity to say or --

18 MR. MOORE: (Inaudible) time today.

19 MODERATOR ENGLEDDOW: Thank you. Thank  
20 you very much. Great.

21 (Applause.)

22 MODERATOR ENGLEDDOW: We have closing

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1 remarks. We'll just -- if we could just turn  
2 around and Kalpak will --

3 MODERATOR GUDE: Sorry.

4 MODERATOR ENGLEDDOW: -- close us out for  
5 the day.

6 MODERATOR GUDE: Thought it would be a  
7 little quicker instead of having everyone  
8 relocate. First of all, I wanted to thank  
9 everybody for coming. Obviously, this is a  
10 complicated issue. It's more complicated even  
11 than we thought when we first started. There are  
12 obviously very critical issues of -- for inmates  
13 and their families and friends, the impact of high  
14 rates to them. There are security issues. There  
15 are jail issues and prison issues. This is a  
16 complicated set of things we deal with and all of  
17 you coming here, participating, sharing with us  
18 your knowledge and expertise improves our  
19 understanding and frankly, I hope and believe it  
20 will improve the end product of what comes out of  
21 this process.

22 So let me start by saying again, thank

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1 you to everyone for coming. I particularly want  
2 to thank Congresswoman Holmes Norton for making  
3 the time to come here and again elevate the  
4 importance of this issue at a different level, at  
5 a political level but at an understanding level  
6 that really impacts people.

7           Also want to thank, obviously, Chairman  
8 Wheeler and Commissioners Clyburn and Rosenworcel  
9 for really leading the effort at the Commission to  
10 move this process. As you all know, this is one  
11 that has been sitting here for over 10 years.  
12 Commissioner Clyburn, when she was acting  
13 Chairwoman, drove the process to really get it  
14 moving again and she deserves an enormous amount  
15 of credit for taking on this tough challenge.

16           I finally want to also thank the great  
17 staff that I have in my division at the Pricing  
18 Policy Division in the Wireline Telecommunications  
19 Bureau and the Consumer and Government Affairs  
20 Bureau at the FCC as well as the AV staff, the  
21 social media team, our interpreters, everyone  
22 who's involved. It really does take a small

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1 village to make all of this happen.

2           Finally, I wanted to thank Darrell  
3 Baker, Elias Diggins and Kevin Landy. I'm calling  
4 you all out as government officials and  
5 representatives from different parties. To come  
6 here and share your knowledge and expertise with  
7 us, Darrel, you traveled from Alabama; Elias, you  
8 came all the way from Colorado; and Kevin walked  
9 across the street. But in all cases, we really  
10 appreciate folks coming in and all of the  
11 panelists and the audience as well. This really  
12 has been instructive to us and will move the  
13 process forward. But thank you very much. We  
14 appreciate it.

15           Please stay involved in the process.  
16 This is not the end by any means. The Commission  
17 intends to continue. We will probably have  
18 another opportunity for the public to comment. We  
19 hope you all do. And continue to be involved and  
20 help us and guide us move in the right direction.  
21 Thank you again.  
22 (Whereupon, at 4:12, the workshop was adjourned.)

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2 I, CHAZ BENNETT, the officer before whom the  
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10 the parties to the action in which this deposition  
11 was taken; and, further, that I am not a relative  
12 or employee of any counsel or attorney employed by  
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14 interested in the outcome of this action.

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16

17

  
CHAZ BENNETT

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